BRILL

ISLAMIC LAW AND SOCIETY 31 (2024) 194–234

Islamic Law and Society
brill.com/ils

The Status of Music in Islamic Law: Ibn Ḥajar al-Haytamī's (d. 974/1567) Treatise Against Recreation in its Polemical Context

Fitzroy Morrissey
Faculty of Asian and Middle Eastern Studies, University of Oxford,
1 Pusey Ln, Oxford, OX1 2LE, UK
fitzroy.morrissey@ames.ox.ac.uk

Received 5 June 2023 | Accepted 16 January 2024 |
Published online 6 March 2024

Abstract

Kaff al-raʿāʿ ʿan muḥarramāt al-lahw wa-l-samāʿ is an influential treatise on the legal status of music and other recreational activities written by the Shāfiʿī Ibn Ḥajar al-Haytamī (d. 974/1567) in 958/1551. This article offers the first analysis of this "treatise against recreation". Ibn Ḥajar al-Haytamī argues for the impermissibility of most musical activities on the basis of the Qurʾan and Hadith, the consensus of the *ʿulamāʾ* (particularly from his Shāfiʿī school), and the incompatibility of recreation (*lahw*) and piety. These arguments are forged in response to claims found in more permissive texts by the Ẓāhirīs Ibn Ḥazm (d. 456/1064) and Ibn al-Qaysarānī (d. 507/1113) and the Mālikī Muḥammad al-Shādhilī al-Tūnisī (d. 882/1477). I suggest that it is Ibn Ḥajar's negative attitude to *lahw* that underlies his restrictive views on music, highlight the gendered element in this attitude, and observe that attitudes to recreation are not interchangeable with affiliation to Sufism.

Keywords

Music – recreation (*lahw*) – *samāʿ* – Sufism – Ibn Ḥajar al-Haytamī – Ibn Ḥazm – Ibn al-Qaysarānī – Muḥammad al-Shādhilī al-Tūnisī

Published with license by Koninklijke Brill BV | DOI:10.1163/15685195-BJA10053
© FITZROY MORRISSEY, 2024 | ISSN: 0928-9380 (print) 1568-5195 (online)
This is an open access article distributed under the terms of the CC BY 4.0 license.

Introduction

A student setting out to investigate the legal status of music in Islam might begin by turning to the section on "Music, Song, and Dance" in *Reliance of the Traveller*, Nuh Ha Mim Keller's translation of an 8th/14th-century Shāfiʿī legal manual, which has been described as the only reliable English translation of a manual of Islamic law.[1] There he or she would find that the main part of that section is in fact taken from a treatise titled *Kaff al-raʿāʿ ʿan muḥarramāt al-lahw wa-l-samāʿ* by Ibn Ḥajar al-Haytamī (d. 974/1567),[2] an Egyptian Shāfiʿī, Ashʿarī, and Sufi who settled in Mecca in 940/1533 and is best known for his commentary on al-Nawawī's (d. 676/1277) *Minhāj al-ṭālibīn* and for a treatise on the "practical morality of Islam" titled *al-Zawājir ʿan iqtirāf al-kabāʾir*.[3] Further research would reveal that both *Kaff al-raʿāʿ* and the treatment of musical activities in the *Zawājir* are commonly cited on Islamic websites,[4] and that considerable use is made of *Kaff al-raʿāʿ* in a popular book surveying "Islam's stance on music".[5] In short, it would be clear to our hypothetical student that the treatise was an important contribution to the history of the debate on the subject.[6]

Moreover, a cursory reading of the treatise reveals that it is embedded within a highly polemical debate on the legal status of musical activities. As we shall see, Ibn Ḥajar's restrictive views on music are forged in reaction to the

1 A. Kevin Reinhart, "Review of *Reliance of the Traveller: A Classical Manual of Islamic Sacred Law, by Aḥmad ibn Naqīb al-Miṣrī (d. 769/1369)*, trans. by Noah Ha Mim Keller," *Middle East Studies Association Bulletin* 27, no. 2 (1993), 244.

2 Noah H.M. Keller (trans.), *Reliance of the Traveller: A Classical Manual of Islamic Sacred Law, by Aḥmad ibn Naqīb al-Miṣrī (d. 769/1369)* (rev. ed., Betsville, MD: Amana Publications, 1994), 774–5.

3 *EI*[2], "Ibn Ḥajar al-Haytamī" (C. van Arendonk and J. Schacht), accessed online via https://referenceworks.brillonline.com/entries/encyclopaedia-of-islam-2/ibn-hadjar-al-haytami-SIM_3179?s.num=0&s.f.s2_parent=s.f.book.encyclopaedia-of-islam-2&s.q=ibn+hadjar+al-haytami on 9th October 2022.

4 See e.g. https://www.islamweb.net/en/fatwa/81239/ruling-on-singing, https://www.missionislam.com/knowledge/musicislam.html, accessed on 3rd January 2023.

5 Khalid Baig, *Slippery Stone: An Enquiry into Islam's Stance on Music* (Garden Grove, CA: Open Mind Press, 1429/2008), 234–42, accessed online via https://archive.org/details/slipperystoneaninquiryintoislamsstanceonmusicbykhalidbaig/page/n127/mode/2up on 11th January 2023.

6 Ibn Ḥajar's treatise is also cited by the prominent 11th–12th/17th–18th-century Ḥanafī scholar and Sufi ʿAbd al-Ghanī al-Nābulusī (d. 1143/1731) in a treatise defending listening to music. See al-Nābulusī, *Īḍāḥ al-dalālāt fī samʿ al-ālāt* (MS Ḥājī Maḥmūd 3213), fol. 13b, accessed online via https://www.quranicthought.com/books/إيضاح-الدلالات-في-سماع-الآلات-للشيخ-عب/ on 6th July 2022. For al-Nābulusī's treatise, see Amnon Shiloah, "Music and Religion in Islam," *Acta Musicologica* 69:2 (1997), 143–155, at 152.

permissive views advocated in treatises by a Mālikī scholar and Sufi of the Wafāʾī order named Abū al-Mawāhib Muḥammad al-Shādhilī al-Tūnisī (d. 882/1477), and before him by the Ẓāhirīs Ibn Ḥazm (d. 456/1064) and Ibn al-Qaysarānī (d. 507/1113). These texts have also proved to be of enduring interest and influence. In the ongoing debate on the permissibility of music, they are cited by such prominent figures as the Ḥanafī scholar, Sufi, and lexicographer Murtaḍā al-Zabīdī (d. 1201/1795),[7] and, in a contemporary context, by the Egyptian Grand Mufti and Shaykh al-Azhar Jādd al-Ḥaqq (d. 1416/1996),[8] the Salafi traditionist Muḥammad Nāṣir al-Dīn al-Albānī (d. 1419/1999), and the Islamist scholar and "global mufti" Yūsuf al-Qaraḍāwī (d. 1444/2022).[9]

However, besides the two very brief passages translated by Keller, who gives no indication of the treatise's polemical context, almost nothing has been written in English on *Kaff al-raʿāʿ*.[10] This neglect is unfortunate because Ibn Ḥajar al-Haytamī's text, and the texts to which it responds, give us some insight into a number of key sub-issues relating to the main issue of the status of music in Islamic law, including: the legal categorisation (*ḥukm*) of musical activities such as singing (*ghināʾ*), the playing of musical instruments (*ālāt muṭriba*, *malāhī*, *maʿāzif*), dancing (*raqṣ*), the recitation of the Qurʾan with tones (*al-qirāʾa bi-alḥān*), listening to music (*samāʿ*), and the Sufi audition or mystical concert (also *samāʿ*); the Qurʾanic verses and Hadith reports cited in support of the competing views on the categorisation of those activities; the scholarly authorities cited in support of those competing views; the connection between music and other forms of recreation (*lahw*); the importance of "intention" (*niyya*) in determining the legal status of music; the role of ideas about gender in the debate on the legal status of music; the role of Sufism in

7 al-Zabīdī, *Kitāb Itḥāf al-sāda al-muttaqīn bi-sharḥ Iḥyāʾ ʿulūm al-dīn*, 10 vols. (Egypt: Dār al-maʿārif, 1311/1894), 6:570, citing Ibn al-Qaysarānī.

8 Michael Mumisa (trans.), "Fatwa on Music by the Grand Mufti and Shaykh al-Azhar," accessed online via https://islamictext.wordpress.com/music-azhar-fatwa/ on 5th January 2023, citing Ibn al-Qaysarānī.

9 José Miguel Puerta Vílchez, "Inventory of Ibn Ḥazm's Works," in Camilla Adang, María Isabel Fierro, and Sabine Schmidtke (eds.), *Ibn Ḥazm of Cordoba: The Life and Works of a Controversial Thinker* (Leiden: Brill, 2012), 683–760, at 703. Al-Qaraḍāwī cites Ibn Ḥazm with approval, while al-Albānī is critical. For al-Qaraḍāwī's views on music and other forms of amusement, see also Muḥammad al-Atawneh, "Leisure and Entertainment (*malāhī*) in Contemporary Islamic Legal Thought: Music and the Audio-Visual Media," *Islamic Law and Society* 19 (2012), 397–415.

10 Other works of Ibn Ḥajar al-Haytamī, including *al-Zawājir*, are frequently cited in Franz Rosenthal, *Gambling in Islam* (Leiden: Brill, 1975), and Zoltan Szombathy, *Mujūn: Libertinism in Medieval Muslim Society and Literature* (Cambridge: Gibb Memorial Trust, 2013).

determining a jurist's views on music; and the relationship between attitudes to music and piety.

By way of investigating these issues, this article offers the first extended analysis of *Kaff al-raʿāʿ ʿan muḥarramāt al-lahw wa-l-samāʿ*. After introducing the polemical context of the treatise and the texts to which Ibn Ḥajar al-Haytamī is responding, I give a brief summary of Ibn Ḥajar's categorisation of musical activities. Following this, I analyse what I see as the three major themes of the treatise: that the scriptural texts advocate a restrictive position on the legal status of music, that prominent religious authorities of previous generations, particularly from his own Shāfiʿī school, did not permit or engage in reprehensible or forbidden musical activities, and that recreation (*lahw*) – a category that includes games as well as music – is inconsistent with a life of piety. Since Ibn Ḥajar develops these arguments in reaction to the views that he found in the earlier texts, I also pay close attention to the relevant sections of those earlier treatises. I suggest that Ibn Ḥajar seeks to refute those works in order to clear the way for establishing a consensus on the impermissibility of certain musical activities.

In conclusion, I look at the way that the authors' attitudes to music intersect with their different types of piety, particularly the extent to which they display a tolerance of recreation (*lahw*). Insofar as Ibn Ḥajar al-Haytamī's negative attitude to music is governed by his intolerance of *lahw*, *Kaff al-raʿāʿ* might usefully be categorised as a "treatise against recreation", a genre similar in themes and orientation to the "treatises against innovations (*bidʿa*)" and "treatises against imitation (*tashabbuh*)" treated respectively by Maribel Fierro and Youshaa Patel.[11] This genre, the earliest known example of which is *Dhamm al-malāhī* by Ibn Abī al-Dunyā (d. 281/894),[12] has a pronounced gendered dimension, as recreation is often associated with male "effeminacy" (*takhannuth*) and the behaviour of women.[13] I argue that attitudes towards recreation cut across – and are often more relevant than – affiliation (or lack thereof) to Sufism, which is often thought to be a key determinant of a person's attitude towards music.

11 Maribel Fierro, "The treatises against innovations (*Kutub bidʿa*)," *Der Islam* 69 (1992), 204–46; Youshaa Patel, "The Islamic Treatises against Imitation (*Tašabbuh*): A Bibliographical History," *Arabica* 65: 5–6 (2018), 597–639.

12 James Robson (trans.), *Tracts on Listening to Music* (London: The Royal Asiatic Society, 1938), part one.

13 See e.g. *ibid.*, 40.

The Polemical Context

Kaff al-raʿāʿ ʿan muḥarramāt al-lahw wa-l-samāʿ is a polemical treatise. This is clear from the opening praise formulae, which refer to the "machinations" (*dasāʾis*), "Satanic deceptions" (*taswīlāt al-shayṭān*), and "nonsense" (*safsāf*) of those "liars" (*al-mubṭilīn*) and "wretched people" (*al-ashqiyāʾ*) who "strayed from the path", "adopted the flutes of Satan" (*mazāmīr al-shayṭān*)", and "practised bad customs (*sannū sunan sayyiʾa*) accompanied by heresy and obstinacy (*maṣḥūba bi-l-ilḥād wa-l-ʿinād*)".[14]

While these formulae may be read as an attack on anyone who takes a permissive view on the legal status of music, these harsh words are directed in the first instance against a specific set of opponents. This is made clear in the preface, in which Ibn Ḥajar recounts how he came to write the treatise. In Rabīʿ 958 [March/April 1551], he tells us, he was invited by a friend to an event at which an animal sacrifice (*nasīka*) was made to God,[15] and "a question arose concerning the substantive laws (*furūʿ*) connected to audition (*samāʿ*)", a term that can be used for the mystical concert of the Sufis, or, as seems to be the case here (since Ibn Ḥajar's treatise discusses a range of musical activities), for "music" more generally.[16] When Ibn Ḥajar responded rudely to the suggestion that a permissive view be taken on the legal status of music, he was told about a book advocating such a view by "a Tunisian who had lived in Egypt, was a follower of the Mālikī school, and of the Sufi tendency". This was *Farḥ al-asmāʿ bi-rukhaṣ al-samāʿ* by the 9th/15th-century mystic Abū al-Mawāhib Muḥammad al-Shādhilī al-Tūnisī, also known as Ibn Zaghdān, a follower of the Wafāʾī branch of the Shādhilī Sufi order.

The structure and contents of al-Tūnisī's text are heavily dependent on another treatise on music, *al-Imtāʿ bi-aḥkām al-samāʿ* by the Egyptian Shāfiʿī Kamāl al-Dīn al-Udfuwī (d. 748/1347). *Al-Imtāʿ* consists of an introduction and three chapters devoted, respectively, to singing (*al-ghināʾ*), dancing (*al-raqṣ*), and the attendance of religious scholars at Sufi audition sessions featuring

14 Ibn Ḥajar al-Haytamī, *Kaff al-raʿāʿ ʿan muḥarramāt al-lahw wa-l-samāʿ*, ed. ʿĀdil ʿAbd al-Munʿim Abū al-ʿAbbās (Cairo: Maktabat al-Qurʾān, 1409/1989), 17.

15 The term *nasīka* may denote a sacrifice performed before the pilgrimage. See Muslim b. al-Ḥajjāj al-Naysābūrī, *Ṣaḥīḥ Muslim*, ed. Abū l-Faḍl al-Dimyāṭī (Cairo: Dār al-Bayān al-ʿarabī, 2006), *kitāb al-ḥajj, bāb jawāz ḥalq al-raʾs li-l-muḥarrim idhā kāna bihi adhan wa-wujūb al-fidya li-ḥalqihi wa-bayān qadrihā*, 564, no. 1201.

16 *EI*[2], Samāʿ (J. During), accessed online via https://referenceworks.brillonline.com/entries/encyclopaedia-of-islam-2/sama-COM_0992?s.num=1&s.f.s2_parent=s.f.book.encyclopaedia-of-islam-2&s.q=sama%27 on 11th January 2023.

the tambourine (*al-duff*) and flute (*al-shabbāba*). Whereas al-Udfuwī's work investigates the debate surrounding the legal status of musical activities in a balanced way, covering the opinions of both those who take a restrictive view and those who take a permissive view, and seeking the path of moderation (*al-wasaṭ*) between extremes,[17] al-Tūnisī's treatise is more one sided and polemical. In the introduction, he states that his aim in writing the treatise is to bring together "useful lessons" (*al-fawā'id*) on the permissibility of audition (*al-samāʿ*) – here probably meaning the Sufi mystical concert in particular – and singing (*al-ghinā'*), and in so doing to "refute the ignorant people" (*inkār al-juhhāl*) who condemn these musical activities.[18] In contrast to these ignorant scholars, al-Tūnisī asserts that singing, dancing, and audition sessions featuring the tambourine and flute are permitted.

Al-Tūnisī builds his case for the permissibility of each of these musical activities on the opinions and example of earlier religious authorities, many of them affiliated, like Ibn Ḥajar al-Haytamī, to the Shāfiʿī school of law, and almost all of which are taken from the treatise of al-Udfuwī (also a Shāfiʿī). This use of Shāfiʿī authorities seems to have especially upset Ibn Ḥajar, particularly since it seems he wished to establish the existence of a consensus on the impermissibility of several musical activities, in the first instance among the Shāfiʿīs, and then among the scholars of the Muslim community more generally.

Besides his appeal to scholarly authorities, al-Tūnisī's argument for a permissive position on the legal status of music is based on a recognition of the seemingly basic human need for recreation (*lahw*), a category of activities that is commonly thought to include music. This recognition is indicated by his inclusion, at the end of his discussion of stringed instruments and flutes, of a verse from the *Tā'iyya al-kubrā* of the celebrated Egyptian mystical poet Ibn al-Fāriḍ (d. 632/1235):

> Do not turn the one engaged in amusement (*al-lāhī*) away from amusement (*al-lahw*),
> For the jesting of recreations (*hazl al-malāhī*) is the seriousness (*jidd*) of a serious soul (*nafs mujidda*).[19]

17 al-Udfuwi, *al-Imtāʿ bi-aḥkām al-samāʿ*, ed. Jāntī b. Wisām Dawghūẓ (Beirut; Istanbul: Dār al-Lubāb, 2019), 4.

18 al-Tūnisī, *Farḥ al-asmāʿ bi-rukhaṣ al-samāʿ*, ed. Muḥammad al-Sharīf al-Raḥmūnī (n.p.: al-Dār al-ʿArabiyya li-l-kitāb, 1985), 45–6.

19 *Ibid.*, 66. For the verse in context, see al-Qayṣarī, *Sharḥ Tā'iyyat Ibn al-Fāriḍ al-kubrā* (Beirut: Dār al-Kutub al-ʿilmiyya, 1425/2004), 176, verse 675; R.A. Nicholson, *Studies in Islamic Mysticism*, rev. ed. (London: Routledge Curzon, 2003), 260, verse 677.

For al-Tūnisī, the permissibility of music is based on the view that there is a time and place for both seriousness (*jidd*) and recreation (*lahw*). Indeed, a life is not complete without one or the other. This tolerance of recreation, as we shall see, is a fundamental point of divergence with Ibn Ḥajar al-Haytamī.

Having attempted to refute the principal arguments of al-Tūnisī's text at the sacrifice in Rabīʿ 958, Ibn Ḥajar later received a copy of the book from one of the leading men (*ruʾasāʾ*) of Mecca, who asked him to write a response to it. The need for such a response, Ibn Ḥajar explains, was made pressing by the fact that the book's arguments had proven influential among his misguided contemporaries, who had devoted themselves to copying al-Tunisī's book and listening to music. Indeed, he adds, they did this openly in the holy city of Mecca, so Ibn Ḥajar was forced to break their instruments with his own hands and bring the perpetrators to the religious and political authorities to be punished. The issue then died down for a time, until 3 Rajab 958 [7 July 1551], when news reached him that a group of scholars from a distant country had attended a session at which they discussed the issue, and during which some participants paid attention to the opinion of "someone whose opinion on what is permitted and forbidden ought to have been ignored" – presumably, al-Tūnisī. On receiving this news, Ibn Ḥajar finally sat down to write *Kaff al-raʿāʿ*, to explain which musical activities are permitted and which are forbidden in the view of all religious scholars whose opinion, as he saw it, is worth taking into consideration.[20]

We learn from this preface that *Kaff al-raʿāʿ* was a response to the popularity of music in 10th/16th-century Mecca, which Ibn Ḥajar seems to have regarded as a manifestation of the "corruption of the time" (*fasād al-zamān*), i.e., the inability of the ignorant to distinguish the permitted from the forbidden or a learned scholar from a pseudo-scholar. We also learn that his written intervention on this issue went hand in hand with his fulfilment of the Qurʾanic duty of "commanding good and forbidding evil" (*al-amr bi-l-maʿrūf wa-l-nahy ʿan al-munkar*), by breaking musical instruments with his own hands, signalling that he regarded the issue as one that pertained to the maintenance of public order.[21] We discover that the treatise is not so much an independent work as a refutation of al-Tūnisī's *Farḥ al-asmāʿ*. And we see Ibn Ḥajar's concern for establishing the existence of a consensus on the issue of music among those *ʿulamāʾ* whose views are worth considering, a concern that goes hand in hand with an attempt to exclude from the discussion those who take a permissive attitude towards music.

20 Ibn Ḥajar al-Haytamī, *Kaff al-raʿāʿ*, 18–19.

21 See Michael Cook, *Commanding Right and Forbidding Wrong in Islamic Thought* (Cambridge: Cambridge University Press, 2000), who demonstrates that musical activities are one of the most common targets of those carrying out the duty of forbidding wrong.

While al-Tūnisī's text, and the scholars who had fallen under its influence, are the immediate targets of *Kaff al-raʿāʿ*, they are not the only object of Ibn Ḥajar's polemic. Later in the treatise, Ibn Ḥajar observes that al-Tūnisī "ordered the readers of [his] book to follow two lying, innovating, wicked men" (*khabīthayn mubtadiʿayn kadhdhābayn*)".[22] This is a reference to two noted scholars of the Ẓāhirī school whose views al-Tūnisī cites in his treatise: the fifth/eleventh-century Andalusian scholar Ibn Ḥazm and the fifth-sixth/eleventh-twelfth-century Jerusalemite traditionist and Sufi Ibn al-Qaysarānī, also known as Ibn Ṭāhir al-Maqdisī. Both scholars had written on music. Ibn Ḥazm treats the legal status of musical instruments in his legal manual *al-Muḥallā*, specifically in the book on sales (*kitāb al-buyūʿ*). He also wrote a short treatise devoted to "singing for the sake of amusement", *Risāla fī l-ghināʾ al-mulhī*.[23] Ibn al-Qaysarānī's *Kitāb al-samāʿ* is one of the most important works on mystical audition from the classical period of Sufism,[24] although in that treatise he also explicitly seeks to clarify the legal status of music "in all its various kinds".[25]

These two Ẓāhirī scholars adopt a permissive view on the legal status of music. In Ibn Ḥazm's view, the selling of reed flutes (*al-mazāmīr*), short-necked lutes (*al-ʿīdān*), stringed instruments (*al-maʿāzif*), and long-necked lutes (*al-ṭanābīr*) is permitted (*ḥalāl kulluhu*), and whoever breaks any of these instruments is to be held liable (*ḍamana*), a view that diverges from the common position found in the legal manuals of the four Sunni schools.[26] His argument proceeds from the Ẓāhirī principle that all law must be founded on revealed texts: because

22 Ibn Ḥajar al-Haytamī, *Kaff al-raʿāʿ*, 83.

23 For the passage in the *Muḥallā*, see Samir Kaddouri, "Ibn Ḥazm al-Qurṭubī," in Oussama Arabi, David Stephan Powers, and Susan A. Spectorsky (eds.), *Islamic Legal Thought: A Compendium of Muslim Jurists* (Leiden: Brill, 2013), 211–238, at 233–4. For the treatise, see Ibn Ḥazm, *Rasāʾil Ibn Ḥazm al-Andalusī*, ed. Iḥsān ʿAbbās, 4 vols. (Beirut: al-Muʾassasa al-ʿarabiyya li-l-dirāsa wa-l-nashr, 1987), 1:417–439; Elías Terés Sādaba, "La epístola sobre el canto con música instrumental de Ibn Ḥazm de Córdoba," *al-Andalus* 36 (1971), 203–14; José Miguel Puerta Vílchez, "Art and Aesthetics in the Work of Ibn Ḥazm of Cordoba," in Adang, Fierro, and Schmidtke (eds.), *Ibn Ḥazm of Cordoba*, 253–372, at 280–4.

24 Ahmet Karamustafa, *Sufism: The Formative Period* (Edinburgh: Edinburgh University Press, 2007), 87.

25 Ibn al-Qaysarānī, *Kitāb al-samāʿ*, ed. Abū l-Wafā al-Marāghī (Cairo: Lajnat iḥyāʾ al-turāth al-islāmī, 1970), 29.

26 See e.g. al-Marghīnānī, *al-Hidāya sharḥ bidāyat al-mubtadā*, 4 vols. (Egypt: Muṣṭafā al-Bābī al-Ḥalabī, 1965), 4:23; al-Nawawī, *Minhāj al-ṭālibīn wa-ʿumdat al-muftīn*, ed. Muḥammad Muḥammad Ṭāhir Shaʿbān (Beirut: Dār al-Minhāj, 1426/2005), 292; Ibn Qudāma, *al-Mughnī*, ed. ʿAbd al-Fattāḥ Muḥammad al-Ḥulw and ʿAbd Allāh b. ʿAbd al-Raḥmān al-Turkī, 15 vols. (Riyadh: Dār ʿĀlam al-kutub, 1417/1997 [reprint of Cairo: Hajr, 1406-11/1986-90]), 12:457. See also Cook, *Commanding Right and Forbidding Wrong*, 98: "[T]he regular course of action against musical instruments [in Ḥanbalī literature] is to break them."

there is no explicit scriptural text (*naṣṣ*) stipulating that these instruments are forbidden, they must therefore be permitted, based on the principle of the "original permissibility" of things (*al-ibāḥa al-aṣliyya*). Singing for recreational purposes (*al-ghinā' al-mulhī*) is likewise permitted, again on the basis that there is no authentic scriptural text indicating the contrary. In support of this claim, in both the *Muḥallā* and the treatise on singing, Ibn Ḥazm attempts to demonstrate the inauthenticity of the Hadith reports that are usually cited by those scholars who take a restrictive view on the legal status of singing and other forms of musical activity, as well as the inapplicability of the Qur'anic verse most often cited by the opponents of music – "Among people there are those who purchase amusing speech (*wa-min al-nās man yashtarī lahw al-ḥadīth*)" (Q. 31:6) – to the debate on singing.[27] He also refers to the principle – expressed in a well-known Hadith – that "actions are judged according to intentions" (*al-aʿmāl bi-l-niyyāt*),[28] which indicates that there is nothing wrong with singing or listening to singing so long as a person's intention (*niyya*) is pure. The condition of pure intention, he suggests, applies to all kinds of recreation. Singing, going for a stroll in a garden, dyeing one's clothes, sitting by the door of one's home, or any other form of recreation (*kull mā huwa min al-lahw*) are all permitted, on the condition that the person doing them does not intend to disobey God.[29]

Ibn Ḥazm's fellow Ẓāhirī Ibn al-Qaysarānī's treatise on audition is divided into two parts, one on the evidence (*al-adilla*) for the permissibility of listening to music (*jawāz istimāʿihi*), and the other on the erroneous nature of the so-called evidence for its prohibition.[30] His principal argument is the Ẓāhirī one used by Ibn Ḥazm, namely, that listening to music is permitted because there is no explicit stipulation in the Qur'an or sound Hadith reports indicating that it is prohibited. No one, he explains, can forbid what God and His Messenger have not expressly forbidden, though this, he says, is what the ignorant people of his age have done.[31] Indeed, as Ibn al-Qaysarānī, again like Ibn Ḥazm, sees it, the Sunna positively indicates that singing and other kinds of music are permitted, for there are several Hadith reports that mention

27 Kaddouri, "Ibn Ḥazm al-Qurṭubī," 233–4; Ibn Ḥazm, *Rasā'il*, 1:434–5; Ibn Ḥazm, *al-Muḥallā*, ed. Aḥmad Muḥammad Shākir, 11 vols. (Cairo: Idārat al-Ṭibāʿa al-Munīriyya, 1347–1352/1928/9-1933), 9:55–60.

28 See e.g. al-Bukhārī, *Ṣaḥīḥ al-Bukhārī* (Damascus; Beirut: Dār Ibn Kathīr, 1423/2002), *kitāb bad' al-waḥy*, *bāb kayf kāna bad' al-waḥy ilā rasūl Allāh*, 7, no. 1; Ezzeddin Ibrahim and Denys Johnson-Davies (trans.), *An-Nawawī's Forty Hadith* (Riyadh: International Islamic Publishing House, 1418/1997), 26–7, no. 1.

29 Ibn Ḥazm, *Rasā'il*, 1:438–9; Ibn Ḥazm, *al-Muḥallā*, 9:60.

30 Ibn al-Qaysarānī, *Kitāb al-samāʿ*, 33.

31 *Ibid.*, 30, 32–3, 67.

instances in which the Prophet and his Companions listened to music without forbidding it.[32] Further support for the permissibility of music is provided by the example of the pious predecessors (*al-salaf*).[33]

Aside from citing traditions indicating that music is permissible, Ibn al-Qaysarānī also highlights what he regards as the "defects" (*ʿilal*) of the reports (*akhbār*) adduced by those who take a restrictive position on the legal status of music, citing twenty-four reports used by his opponents and attempting to show, through *isnād* criticism, that none of them is an authentic statement of the Prophet.[34] Furthermore, again like his Ẓāhirī predecessor Ibn Ḥazm, Ibn al-Qaysarānī also encourages tolerance of recreation (*lahw*). According to him, recreation, a category into which most forms of musical activity fall, is implicitly allowed by the Qurʾan, which mentions *lahw* alongside trading (*tijāra*) (Q. 62:11), implying that the legal status of both activities is the same. No one, of course, would forbid trading.[35] And he points to several Hadith reports in which the Prophet or his Companions spoke about music and other forms of recreation (*lahw*) without indicating that they are forbidden.[36]

This forbearing attitude towards recreation is rooted in a view of Islam as a religion of tolerance and ease, an idea, as Ze'ev Maghen has shown, that was widespread in premodern Islamic thought.[37] In the final section of his treatise, Ibn al-Qaysarānī attempts to show that "the Prophet, his Companions, the Followers, and the Imams of the Muslims commanded leniency (*amarū bi-l-tashīl*) and forbade restrictiveness and severity (*wa-nahaw ʿan al-taḍyīq wa-l-tashdīd*), and that they used to joke and play (*yamzaḥūn wa-yalʿabūn*)."[38] Ibn al-Qaysarānī contrasts this attitude with that of the hypocritical ascetics of his own day – whom he calls "the Qurʾan reciters (*al-qurrāʾ*) of this time of ours" –

32 *Ibid.*, 37–8.
33 *Ibid.*, 46–7.
34 *Ibid.*, 78–90.
35 *Ibid.*, 73.
36 *Ibid.*, 37–38.
37 Ze'ev Maghen, *After Hardship Cometh Ease: The Jews as Backdrop for Muslim Moderation* (Berlin; New York: De Gruyter, 2006), esp. ch. 2. Maghen argues that this notion of Islam as a religion of ease was created against the foil of the supposed hardship of Judaism, "the most difficult religion upon earth" (*ibid.*, 4).
38 In support of his view of Islam as a religion of leniency, Ibn al-Qaysarānī also cites the Hadith, "You have been sent to make things easy, not to make them difficult (*buʿithtum muyassirīn wa-lam tubʿathū muʿassarīn*)," for which see al-Bukhārī, *Ṣaḥīḥ*, *kitāb al-wuḍūʾ*, *bāb ṣabb al-māʾ ʿalā al-būl fī l-masjid*, 65, no. 220; *kitāb al-adab*, *bāb qāwl al-nabī yasirū wa-lā tuʿassirū*, 1531, no. 6128; al-Tirmidhī, *al-Jāmiʿ al-ṣaḥīḥ wa-huwa Sunan al-Tirmidhī*, ed. Aḥmad Muḥammad Shākir, 5 vols. (Cairo: Maṭbaʿat Muṣṭafā al-Bābī al-Ḥalabī, 1382/1962), *kitāb al-ṭahāra*, *bāb mā jāʾa al-būl yuṣīb al-arḍ*, 1:275–6, no. 147.

who dress like paupers and "permit what God has forbidden and are severe in forbidding what God has permitted".[39]

In Ibn Ḥajar al-Haytamī's view, these two Ẓāhirī scholars are paradigmatic examples of pseudo-scholars emulated by the ignorant, including al-Tūnisī. "If only [al-Tūnisī] had known the status (*ḥāl*) of those two men," Ibn Ḥajar writes, "he could have avoided following them, for both of them were errant innovators (*mubtadiʿ ḍāll*)." Ibn Ḥazm and his fellow Ẓāhirīs, he explains, are "adherents of the pure outward meaning (*aṣḥāb ẓāhiriyya maḥḍa*), [to the point that] their intellects were practically metamorphosed (*musikhat*) [into the minds of animals]";[40] indeed, Ibn Ḥazm is "the ugliest of all of them in this regard", hence it "is not permitted for anyone to look into what he has said about musical instruments, contrary to what the author of that book [sc. al-Tūnisī] imagined (*wahama*)".[41] As for Ibn al-Qaysarānī, we are informed that "the religious scholars have gone to great lengths in declaring him in error and stupid (*bālaghū fī taḍlīlihi wa-tasfīhihi*)", for he is an antinomian (*rajul ibāḥī*) who relies on neither evidence (*dalīl*) nor argumentation (*taʿlīl*), but instead takes as his doctrine "all that Satan whispered to him" (*kull mā waswasa lahu bihi al-shayṭān*). Indeed, Ibn Ḥajar alleges, Ibn al-Qaysarānī argues for views that he knows to be false, so that he might delude (*yuwahhim*) those who have no knowledge.[42]

Ibn Ḥajar's hostility to Ibn Ḥazm, in particular, is rooted in his animosity towards Ẓāhirism, which he regards as irrational to the point of ridicule. For instance, echoing a polemical observation about the Ẓāhirīs made by the earlier Shāfiʿī jurist Taqī al-Dīn b. Daqīq al-ʿĪd (d. 702/1302),[43] he writes: "Whoever goes so far as to say, 'If a person urinates in water, the water becomes impure, but if [he urinates] in a container, then pours the urine into the water, the

39 Ibn al-Qaysarānī, *Kitāb al-samāʿ*, 89. Goldziher notes that the term *qurrāʾ* "is commonly applied to people who, out of contempt for all worldly concerns, give themselves up to devotional exercises and lead a contemplative ascetic life." Ignaz Goldziher, *Introduction to Islamic Theology and Law*, tr. Andras Hamori and Ruth Hamori (Princeton, NJ: Princeton University Press, 1981), 127, n. 35. The *qurrāʾ* are "the old enemies of the mystics/Sufis". For the early mystic al-Ḥakīm al-Tirmidhī (d. 298/910), there are three types of *qurrāʾ*, of which the first, whom he calls "the worms" (*dīdān*), are "hypocritical ascetics among the *qurrāʾ* who by making a public display of renunciation of the world hope to win worldly esteem and status". Bernd Radkte and John O'Kane, *The Concept of Sainthood in Early Islamic Mysticism: Two Works by al-Ḥakīm al-Tirmidhī*. (Richmond: Curzon Press, 1996), 157. Ibn al-Qaysarānī seems to have something similar in mind here.

40 Ibn Ḥajar al-Haytamī, *Kaff al-raʿāʿ*, 81.

41 *Ibid.*, 93.

42 *Ibid.*, 81.

43 Aron Zysow, *The Economy of Certainty: An Introduction to the Typology of Islamic Legal Theory* (Atlanta, GA: Lockwood Press, 2013), 162.

water does not become impure,' how can he be given any weight, and how can he be considered rational (*min al-ʿuqalāʾ*), let alone a religious scholar?"[44] This alleged irrationalism is connected to the more immediate cause of Ibn Ḥajar's hostility to Ibn Ḥazm and Ibn al-Qaysarānī, namely, their permissive views on music. It is noteworthy that Ibn Ḥajar describes his opponents' irrationalism in terms of the "metamorphosis" of their intellects. As Michael Cook has written, "Metamorphosis (*maskh*) is a well-established idea in Islamic thought."[45] The Islamic understanding of the concept is based on the Qur'an (Q. 2:65-6, 5:50, 7:166, though not using words of the root *m-s-kh*, which only appears in Q. 36-67), which describes Sabbath-breaking Jews as having been turned into "monkeys, driven away" (Q. 7:166).[46] Notably, in one of the Hadith reports cited by Ibn Ḥajar in his opening list of twenty-one reports on music (on which see below), the Prophet predicts that his community will be subjected to "ignominy (*al-khasf*), metamorphosis (*al-maskh*), and slander (*al-qadhf*)" when "singing girls (*al-qaynāt*) and stringed instruments (*al-maʿāzif*) appear, and wines are permitted."[47] By using the term *musikhat* in this passage, therefore, Ibn Ḥajar seems to be drawing a subtle connection between the Ẓāhirīs' irrationalism and their permissive views on music.

The danger of these permissive views, as Ibn Ḥajar al-Haytamī sees it, is that even if the Ẓāhirī school is itself a tiny and practically defunct minority, they enable non-Ẓāhirīs such as al-Tūnisī and those who follow him to argue that there are scholarly precedents for their erroneous views on the legal status of music. Moreover, if taken into consideration, their views would undermine any scholarly consensus on the impermissibility of most musical activities, for, as Aron Zysow observes, according to the Shāfiʿī school, "the dissent of a heretic or a sinner was enough to prevent the formation of a consensus".[48] Nevertheless, there is precedent within the Shāfiʿī school for excluding Ẓāhirīs from consensus. As Zysow again notes, Imām al-Ḥaramayn al-Juwaynī (d. 478/1085) excludes the Ẓāhirīs on the grounds that they reject analogy, the principal tool for extending the commandments of the scriptural texts into areas not explicitly covered in scripture.[49]

44 Ibn Ḥajar al-Haytamī, *Kaff al-raʿāʿ*, 81.

45 Michael Cook, "Ibn Qutayba and the Monkeys," *Studia Islamica* 98 (1999), 43–74, at 51.

46 See Adam Silverstein, "Unmasking Maskh: The Transformation of Jews into 'apes, driven away' (Qur'an 7: 166) in Near Eastern Context," *Jerusalem Studies in Arabic and Islam* 49 (2020), 177–216.

47 Ibn Ḥajar al-Haytamī, *Kaff al-raʿāʿ*, 21–2. For the Hadith, see al-Tirmidhī, *al-Jāmiʿ*, *kitāb al-fitan, bāb mā jāʾa fī ʿalāmat ḥulūl al-maskh wa-l-khasf*, 4:495–6, no. 2212.

48 Zysow, *The Economy of Certainty*, 124.

49 *Ibid.*, 161.

Ibn Ḥajar al-Haytamī adopts the same position as Imām al-Ḥaramayn. Al-Tūnisī's claim that "it is permitted to emulate someone other than the four Imams [meaning here the four schools of law]", he asserts, is clearly erroneous, for "the Imams [meaning here earlier authorities such as Imām al-Ḥaramayn] have stated that the Ẓāhirīs' contrary view is not to be taken into consideration, and that it is not permitted to emulate one of them because they have negated the intellect (*salabū al-ʿuqūl*) to the extent that they deny clear analogy (*al-qiyās al-jalīy*)."[50] Yet while the supposed irrationality of the Ẓāhirī school means that their views on music ought not to be taken seriously, in actual fact their views, as al-Tūnisī's treatise bears witness, *are* taken seriously, and so have influenced the views of scholars from other schools of law whose views *do* count towards any potential consensus. It is for this reason that Ibn Ḥajar feels the need to devote much of his treatise on music to rebutting their arguments.

The Three Principal Arguments of Ibn Ḥajar al-Haytamī's Treatise and his Categorisation of Musical Activities

It is clear from the above that, rather than a dispassionate analysis of the legal status of different musical activities, *Kaff al-raʿāʿ* is a polemical work that seeks to nullify the permissive views on music of Ibn Ḥazm, Ibn al-Qaysarānī, and al-Tūnisī, which are influential in his own time, and which, if taken into consideration, would undermine scholarly consensus on the impermissibility of certain musical activities. The writings on music of these earlier authors, it should be noted, are different kinds of texts with different aims – one (Ibn Ḥazm's *Muḥallā*) is a section of a Ẓāhirī legal manual dealing with musical instruments, another (Ibn Ḥazm's *Risāla fī l-ghināʾ al-mulhī*) is a legal treatise on recreational singing, while the remaining two (Ibn al-Qaysarānī's *Kitāb al-samāʿ* and al-Tūnisī's *Farḥ al-asmāʿ*) are primarily, though not exclusively, concerned with defending the legality of Sufi mystical audition. Nevertheless, collectively they create a common impression of the basic permissibility of music, and it is this impression that Ibn Ḥajar al-Haytamī is eager to correct.

This impression of the basic permissibility of music is based on the claim, expressed most forcibly by Ibn Ḥazm and Ibn al-Qaysarānī, that no statement in the Qur'an or Hadith explicitly stipulates that singing or other kinds of music are forbidden, and the claim, expressed particularly by Ibn al-Qaysarānī and al-Tūnisī, that several prominent religious authorities, including the early scholars

50 Ibn Ḥajar al-Haytamī, *Kaff al-raʿāʿ*, 92–3.

of Medina and many of the most authoritative Shāfiʿī jurists, permitted singing and certain other forms of musical activity and, in some cases, actually engaged in musical activities themselves. These claims are linked to a belief shared by the three authors that Islam is essentially a religion of ease rather than hardship, and that there is a legitimate space within Islam for activities – including musical ones – that are commonly described as forms of recreation (*lahw*), provided that the intention (*niyya*) of those who engage in them is sound.

Viewing Ibn Ḥajar al-Haytamī's treatise as a response to these claims helps us to identify the major themes running through it. Ibn Ḥajar's principal arguments, in fact, are a mirror image of his opponents' claims. As we shall see, he argues that the Qurʾan and Hadith support a restrictive position on the legal status of the musical activities discussed; attempts to refute the claim that a number of prominent religious authorities, especially from his own Shāfiʿī school, permitted or engaged in these musical activities, arguing instead for the existence of a consensus on the impermissibility of most forms of music; and suggests that recreation (*lahw*) – a category that includes games as well as music – is incompatible with a life of piety.

Before we consider Ibn Ḥajar's responses to his opponents' claims, a brief summary of his views on the legal status of the musical activities discussed in his treatise will be useful. Following a procedure used by al-Tūnisī and the latter's source, al-Udfuwī, Ibn Ḥajar treats in turn the legal status of unaccompanied singing; singing accompanied by dancing, a tambourine (*duff*), reed flute (*mizmār*), or stringed instrument (*watar*); attending Sufi audition and dancing sessions; reciting the Qurʾan with tones; the *kūba* and other kinds of drums (*al-ṭubūl*); cymbals (*al-ṣafāqatayn*, *al-ṣanj*); the stick called the *qaḍīb*; clapping (*al-taṣfīq*); striking pens on porcelain; the reed pipe known as the *shabbāba*, *zammāra*, or the *yarāʿ*; the Iraqi reed flute (*al-mizmār al-ʿirāqī*); and other stringed and musical instruments (*al-awtār wa-l-maʿāzif*) such as the short-necked lute or oud (*al-ʿūd*) and the long-necked lute (*al-ṭunbūr*).

Ibn Ḥajar's position on almost all of these musical practices and instruments is that, according to the Shāfiʿī view, they are forbidden (*ḥarām*), or at best (for instance, in the case of reciting the Qurʾan with tones) reprehensible (*makrūh*).[51] He acknowledges some minor exceptions, such as playing the tambourine at a wedding or circumcision, which he regards as permitted without reprehensibility (*ḥalāl bi-lā karāha*),[52] or singing that encourages

51 *Ibid.*, 52. As Christopher Melchert notes, "the earliest Shāfiʿī literature is permissive" on this question. Christopher Melchert, "The Controversy over Reciting the Qurʾan with Tones," *Journal of the International Qurʾanic Studies Association* 4 (2019), 85–109, at 85.

52 Ibn Ḥajar al-Haytamī, *Kaff al-raʿāʿ*, 56.

doing good, like the song of the camel driver (*al-ḥudāʾ*) during the pilgrimage or a religious war (*al-ghazw*), which he acknowledges might even be recommended (*yundab*).[53] These exceptions, however, are common to those Muslim writers who take a restrictive position on the permissibility of music. The famous Ḥanbalī scholar Ibn Taymiyya (d. 728/1328), for instance, who is not known for his permissive views on music, allows women to sing and play the tambourine at a wedding and also permits the camel driver's song.[54]

Scriptural Proofs for the Restriction of Music

The argument for a permissive view on music made by the Ẓāhirī scholars Ibn Ḥazm and Ibn al-Qaysarānī is based in the first instance on an analysis of the Hadith reports and Qurʾanic verses that are usually thought to be relevant to the issue. In an attempt to refute their view, Ibn Ḥajar al-Haytamī calls attention to the scriptural texts that, as he sees it, mandate a critical stance towards music, as well as to the inapplicability to the issue of the scriptural texts brought forward by his opponents. In the introduction to *Kaff al-raʿāʿ*, he cites twenty-one Hadith reports, some of which are variants of a single tradition.[55] Over the treatise as a whole, five scriptural texts are particularly important for his argument.[56] As we shall see, these texts are significant insofar as they are also cited by Ibn Ḥazm and Ibn al-Qaysarānī in support of their permissive views. By citing them in support of his restrictive position, Ibn Ḥajar seeks to turn the scripturalism of his Ẓāhirī opponents against them.

53 *Ibid.*, 33.

54 Ibn Taymiyya, *al-Fatāwā al-kubrā*, ed. Muḥammad and Muṣṭafā ʿAbd al-Qādir ʿAṭā, 6 vols. (Beirut: Dār al-Kutub al-ʿilmiyya, 1987), 6:40. See also Robson, *Tracts on Listening to Music*, 95, n. 2; Melchert, "Controversy over Reciting the Qurʾan with Tones," 101. Note, however, the account of a 6th/12th-century Ḥanbalī shaykh from the Nablus region objecting to any kind of music being performed at a wedding, including the playing of the tambourine, in Daniella Talmon-Heller, "*Al-Ḥikāyāt al-Muqtabasa fī Karāmāt Mashāyikh al-Arḍ al-Muqaddasa* – The Cited Tales of the Wondrous Doings of the Shaykhs of the Holy Land by Ḍiyāʾ al-Dīn al-Maqdisī (569/1173–643/1245): text, translation and commentary," *Crusades* 1 (2002), 111–154, at 148–9. Cook notes that "attitudes to the tambourine varied" among the Ḥanbalis" though "Ibn Ḥanbal inclined to lenience": "He sees no harm in the tambourine provided it is not accompanied by singing." Cook, *Commanding Right and Forbidding Wrong*, 90–1.

55 Ibn Ḥajar al-Haytamī, *Kaff al-raʿāʿ*, 20–5.

56 Compare Keller, *Reliance of the Traveller*, 774–5, where a different selection of five Hadith reports are translated from the opening section of *Kaff al-raʿāʿ*.

a) Qur'an 31:6 (*lahw al-ḥadīth*):

The Qur'an contains no clear and obvious reference to music, and most of the arguments concerning the legal status of music revolve around the interpretation of Hadith. Nevertheless, the Qur'an is often brought to bear on the issue. As noted, the verse that is most often cited by those who seek to restrict musical activity is Qur'an 31:6: "Among people there are those who purchase recreational speech (*wa-min al-nās man yashtarī lahw al-ḥadīth*) to lead astray from the path of God." The late-third/ninth-century renunciant Ibn Abī al-Dunyā includes the verse among the traditions against music in his *Dhamm al-malāhī*, the first of the "treatises against recreation" and a model text for those who take a restrictive stance on music and other forms of recreation.[57] In the chapter on audition (*samāʿ*) and ecstasy (*wajd*) in his *Iḥyāʾ ʿulūm al-dīn*, al-Ghazālī (d. 505/1111) cites it as one of the scriptural proof texts adduced by the opponents of music.[58] And the Ḥanbalī scholar and preacher Ibn al-Jawzī (d. 597/1201) likewise cites it in *Talbīs iblīs* as the first of three verses that he uses to prove the reprehensibility (*karāhiyya*) of singing (*al-ghināʾ*) and lamentation (*al-nawḥ*).[59]

Unsurprisingly, therefore, this is the Qur'anic verse upon which Ibn Ḥajar al-Haytamī leans most heavily. He identifies Q. 31:6 as one of two explicit pieces of textual evidence that singing is forbidden (*ẓāhirān fī l-taḥrīm*).[60] (The other is a Hadith that we shall look at presently.) He also includes in his list of twenty-one prohibitive reports the tradition that the Prophet interpreted the phrase *lahw al-ḥadīth* in Q. 31:6 as a reference to singing.[61] Elsewhere, he cites this verse – alongside Q. 17:64, in which God says to Satan, "Lead to destruction those whom you [sc. Satan] can with your voice" – as evidence for the prohibition of musical instruments as well as singing. Both verses are also cited in his discussion (in fact, an extract from his *al-Zawājir ʿan iqtirāf al-kabāʾir*) of whether playing or listening to musical instruments constitutes a major or minor sin (*kabīra am ṣaghīra*) in support of the view that playing and listening to stringed instruments (*al-awtār*) or the *kūba* drum are major sins.[62]

Those who use Q. 31:6 in support of a restrictive view on music refer to the interpretation of the verse attributed variously to the Prophet, the Companions

57 Robson, *Tracts on Listening to Music*, 23–4.

58 D.B. Macdonald, "Emotional Religion in Islam as Affected by Music and Singing," part one, *Journal of the Royal Asiatic Society* (1901), 195–252, at 244.

59 Ibn al-Jawzī, *Talbīs Iblīs* (Beirut: Dār al-Qalam, n.d.), 223–4.

60 Ibn Ḥajar al-Haytamī, *Kaff al-raʿāʿ*, 38.

61 *Ibid.*, 25.

62 *Ibid.*, 90; Ibn Ḥajar al-Haytamī, *al-Zawājir ʿan iqtirāf al-kabāʾir*, 2 vols. (Cairo: Maṭbaʿat Ḥijazī, 1356), 2:168–175.

Ibn Masʿūd (d. 32/652-3?) and Ibn ʿUmar (d. 73/693), the early exegetes Ibn ʿAbbās (d. 68/687?) and Mujāhid (d. between 100/718 and 104/722), and the Follower Ḥasan al-Baṣrī (d. 110/728). According to this interpretation, *lahw al-ḥadīth* signifies "singing (*al-ghinā'*) and things like that" or "musical instruments" (*al-malāhī*).[63] Notwithstanding this interpretation, Ibn Ḥazm and Ibn al-Qaysarānī, who as Ẓāhirīs share a fundamental hostility to *tafsīr*, reject the view that Q. 31:6 constitutes a legal proof (*ḥujja*) that singing and musical instruments are forbidden. Both assert that the statement that *lahw al-ḥadīth* means singing is not an authentic Hadith of the Prophet. Ibn Ḥazm further notes that the full text (*naṣṣ*) of Q. 31:6 clearly refers to unbelievers (*kāfirūn*), and that other Companions and Followers are said to have interpreted the verse differently. For his part, Ibn al-Qaysarānī observes that there are authentic Hadiths indicating that the Prophet listened to singing, that anyone who claims that Ibn ʿAbbās, Ibn Masʿūd, or Ibn ʿUmar knew what the Prophet did not is guilty of "great ignorance" (*jahl ʿaẓīm*), and, indeed, of unbelief (*kufr*), and in any case that the interpretations ascribed to Ibn ʿAbbās, Ibn Masʿūd, and Ibn ʿUmar cannot be authentically attributed to them.[64]

Ibn Ḥajar al-Haytamī, by contrast, upholds the traditional interpretation of Q. 31:6. As noted above, in his opening list of twenty-one Hadith reports, he attributes the interpretation of *lahw al-ḥadīth* as singing to the Prophet himself. Later in the treatise, when discussing the prohibition of musical instruments, he draws on the interpretation attributed to Ibn ʿAbbās and Ḥasan al-Baṣrī, according to whom *lahw al-ḥadīth* refers to musical instruments (*al-malāhī*).[65] While he does not engage with Ibn Ḥazm's and Ibn al-Qaysarānī's arguments against the use of this verse in this context, the Ẓāhirī scholars' understanding of the verse is presumably an example of what he sees as their rigid adherence to the "pure outward meaning of the text".

b) ʿĀ'isha, Abū Bakr, and the singing girls:

As noted, it is Hadith, rather than Qur'an, that is most often cited in the debate on the legal status of music. One of the most crucial traditions in the debate between Ibn Ḥajar and his opponents is a report recorded (in several versions) in the *Ṣaḥīḥayn*, which may be summarized as follows: ʿĀ'isha said that Abū Bakr once called on her, on either ʿĪd al-fiṭr or ʿĪd al-aḍhā, when there were two singing girls (*qaynatān*) with her, singing songs about the Battle of Buʿāth.

63 See e.g. Robson, *Tracts*, 23–4; Ibn al-Jawzī, *Talbīs Iblīs*, 223–4.

64 Ibn Ḥazm, *al-Muḥallā*, 9:58. See also Ibn Ḥazm, *Rasā'il*, 1:435; Ibn al-Qaysarānī, *Kitāb al-samāʿ*, 75–7.

65 Ibn Ḥajar al-Haytamī, *Kaff al-raʿāʿ*, 84.

Abū Bakr exclaimed, "Is this the flute of Satan (*mizmār al-shayṭān*) while the Messenger of God is present?" But the Prophet turned to him and said, "Leave them, Abū Bakr, for every community has its festival (*ʿīd*), and today is our festival."[66]

Both Ibn Ḥazm and Ibn al-Qaysarānī cite this Hadith in defence of the permissibility of singing (and, in Ibn al-Qaysarānī's case, the playing of the tambourine). In his treatise on singing, Ibn Ḥazm identifies it as one of six prophetic or Companion traditions that indicate that singing is permitted. Observing that the Prophet reproached Abū Bakr but not the two singing girls, Ibn Ḥazm asserts that the Prophet's order to Abū Bakr to let the girls sing makes this Hadith a legal proof (*ḥujja*) for the permissibility of singing "that no one can oppose, and to which one must submit".[67] Ibn al-Qaysarānī similarly cites the report as an instance when the Prophet spoke about music without indicating that it is forbidden.[68]

Ibn Ḥajar al-Haytamī responds explicitly to this permissive interpretation of the tradition, which he cites in the course of his criticism of Ibn al-Qaysarānī's claim that playing the tambourine was a *sunna* of the Prophet.[69] Though he does not include this report in his opening list of twenty-one Hadiths that condemn music, he refers to it in the opening lines of the preface, where he writes that those who defend music have "neglected the opinion of the greatest of the truthful ones (*aʿẓam al-ṣiddīqīn*) after the prophets and messengers [sc. Abū Bakr]," who, when he heard two slave-girls singing in the house of the Prophet, asked, "Are these the flutes of Satan (*mazāmīr al-shayṭān*) while the Messenger of God is present?"[70] In this way, the condemnatory view attributed to Abū Bakr sets the tone for the rest of the treatise. Significantly, Ibn Ḥajar does not mention that the Prophet reportedly reproached Abū Bakr for this description

66 My summary is based on al-Bukhārī, *Ṣaḥīḥ*, *kitāb manāqib al-anṣār*, *bāb maqdam al-nabī wa-aṣḥābihi al-madīna*, 965–6, no. 3931. See also al-Bukhārī, *Ṣaḥīḥ*, *kitāb al-jihād wa-l-siyar*, *bāb al-daraq*, 717, no. 2906, *kitāb al-manāqib*, *bāb qiṣṣat al-ḥabash wa-qawl al-nabī yā banī arfida*, 872, no. 3529; Muslim, *Ṣaḥīḥ*, *kitāb ṣalāt al-ʿīdayn*, *bāb al-rukhṣa fī l-laʿb al-ladhī lā maʿṣiya fihi fī ayyām al-ʿīd*, 410–1, no. 892. As noted below, this report is often connected to a report also cited by writers on the legal status of music, about the Prophet encouraging ʿĀ'isha to look upon a group of black people or Ethiopians in Medina playing with shields and spears.

67 Ibn Ḥazm, *Rasāʾil*, 1:436.

68 Ibn al-Qaysarānī, *Kitāb al-samāʿ*, 37–8.

69 Ibn Ḥajar al-Haytamī, *Kaff al-raʿāʿ*, 58.

70 *Ibid.*, 17. *Mazāmīr* can also mean "psalms" (cf. Hebrew *mizmōr*), so the key phrase could be rendered "the psalms of Satan". See Louis Cheikho, "Quelques légendes islamiques apocryphes," in *Mélanges de la Faculté Orientale, Université Saint-Joseph* 4 (1910), 5–56, at 41.

of the singing girls' music making. For him, what matters most is the description itself, the force and validity of which are reinforced by two other traditions included in his list of twenty-one Hadith reports that describe singing and other forms of musical activity as satanic. Indeed, one of those traditions repeats the same phrase – "the flutes of Satan" (*mazāmīr al-shayṭān*) – that is attributed to Abū Bakr.[71] It seems that in Ibn Ḥajar's view, the preponderance of scriptural texts that present music as a satanic activity (see also his aforementioned use of Q. 17:64) outweighs the apparently permissive statement of the Prophet in ʿĀ'isha's Hadith about Abū Bakr and the singing girls.

c) "Singing nourishes hypocrisy in the heart":
"Singing nourishes hypocrisy in the heart just as water nourishes herbage (*al-ghinā' yanbut al-nifāq fī l-qalb kamā yanbut al-mā' al-baql*)" is the second Hadith that is important for Ibn Ḥajar al-Haytamī.[72] This tradition, which is also cited by Ibn Abī al-Dunyā and Ibn al-Jawzī,[73] is not usually attributed to the Prophet. Sometimes it is attributed to the Companion Ibn Masʿūd,[74] sometimes to the Follower Ibrāhīm al-Nakhaʿī (d. *c.* 96/717),[75] and sometimes to Aḥmad b. Ḥanbal (d. 241/855).[76] Ibn Ḥajar, who believes it to be an authentic statement of the Prophet, cites two versions of this report in his opening list of Hadiths, in the second of which listening (*samāʿ*) to both singing and musical instruments (*al-maʿāzif*) is said to nourish hypocrisy.[77]

Of the twenty-one Hadiths cited in the introduction, this is the first on which Ibn Ḥajar al-Haytamī includes his own commentary. As with ʿĀ'isha's

71 Ibn Ḥajar al-Haytamī, *Kaff al-raʿā'*, 24. In the first, the Prophet says of a singing girl of ʿĀ'isha's, "Satan has breathed into her nostrils." In the second, the Prophet says that on the Day of Resurrection God will ask, "Where are those who purified their eyes and ears of the reed flutes of Satan (*mazāmīr al-shayṭān*)?" For the first Hadith, see Aḥmad b. Ḥanbal, *al-Musnad*, 6 vols. (Bulaq: al-Maṭbaʿa al-Amīriyya, 1313/1895), 3:440, no. 15660; for the second, see al-Suyūṭī, *al-Durr al-manthūr*, 8 vols. (Beirut: Dār al-Fikr, 2015), 6:355.

72 Abū Dāwūd, *Sunan*, ed. ʿIzzat ʿUbayd al-Daʿʿās and ʿĀdil al-Sayyid, 5 vols. (Beirut: Ibn Ḥazm, 1418/1997), *kitāb al-adab*, *bāb karāhiyyat al-ghinā' wa-l-zamr*, 5:141, n. 4927. Ibn Ḥajar relates this Hadith from al-Bayhaqī, for which see al-Bayhaqī, *Kitāb al-Sunan al-kubrā*, ed. Muḥammad ʿAbd al-Qādir ʿAṭā, 11 vols. (Beirut: Dār al-Kutub al-ʿIlmiyya, 1424/2003), *kitāb al-shahādāt*, *bāb al-rajul yughannī* etc., 10:377–8, no. 21008, and Ibn Abī al-Dunyā's *Dhamm al-malāhī*, for which see Robson, *Tracts on Listening to Music*, 24.

73 *Ibid.*, 24; Ibn al-Jawzī, *Talbīs iblīs*, 227.

74 See al-Bayhaqī, *al-Sunan al-kubrā*, vol. 10, 3777, no. 21006; Robson, *Tracts on Listening to Music*, 24; Ibn al-Jawzī, *Talbīs iblīs*, 227.

75 See Melchert, "Controversy over Reciting the Qur'an with Tones," 99.

76 See Ibn Qudāma, *al-Mughnī*, vol. 14, 160; Melchert, "Controversy over Reciting the Qur'an with Tones," 101.

77 Ibn Ḥajar al-Haytamī, *Kaff al-raʿā'*, 23, 25.

report about Abū Bakr and the singing girls, his discussion of this tradition again has a sharply polemical edge. His commentary opens with a refutation of the interpretation of a certain Sufi "who did not know the senses or indications of terms" (*mawāqiʿ al-alfāẓ wa-madlūlātihā*) and so claimed that the term *ghināʾ* refers here to monetary riches.[78] While the reference to "a certain Sufi" might suggest that Ibn Ḥajar has his opponent al-Tūnisī in mind here, I have not found this tradition in *Farḥ al-asmāʿ*, though it is possible that his target was one of those Sufis in his own time who cited al-Tūnisī's text in support of their permissive view on music. In his commentary on the tradition, Ibn Ḥajar also mentions a variant cited by his famous namesake, Ibn Ḥajar al-ʿAsqalānī (d. 852/1449), according to which, "Remembrance of God (*dhikr*) nourishes faith (*īmān*) in the heart, just as singing nourishes hypocrisy." As Ibn Ḥajar al-Haytamī observes, Ibn Ḥajar al-ʿAsqalānī notes that remembrance of God is here juxtaposed with remembrance of Satan (*dhikr al-shayṭān*) (*sc.* singing), reinforcing the satanic associations of music evoked in the treatment of ʿĀʾisha's report about Abū Bakr and the singing girls.[79] It is perhaps worthy of note that al-Tūnisī is said to have studied Hadith with Ibn Ḥajar al-ʿAsqalānī, and that in his historical treatise, *Inbāʾ al-ghumr bi-anbāʾ al-ʿumr*, Ibn Ḥajar al-ʿAsqalānī had criticized what he regarded as the excesses of the *dhikr* and *samāʿ* of al-Tūnisī's Wafāʾī order in his entry on ʿAlī Wafā (d. 807/1405), the *shaykh* of that order and al-Tūnisī's own spiritual master.[80] It is not difficult, therefore, to imagine al-Tūnisī writing his treatise on the permissibility of *samāʿ* as a response to opinions of this sort. Al-Haytamī's use of Ibn Ḥajar al-ʿAsqalānī here may reflect an awareness of this context, in which case we might read it as an attempt to claim the authority of al-ʿAsqalānī's opinion for his own restrictive view.

Ibn Ḥajar al-Haytamī also uses the tradition that singing nourishes hypocrisy in the heart against his Ẓāhirī opponents. In his *Kitāb al-samāʿ*, Ibn al-Qaysarānī includes two versions of this report in his list of defective traditions cited by those who take a restrictive view on music.[81] The most

78 *Ibid.*, 23.

79 *Ibid.*, 23. Ibn Ḥajar al-ʿAsqalānī, *Talkhīṣ al-ḥabīr fī takhrīj aḥādīth al-Rāfiʿī al-kabīr*, ed. ʿĀdil Aḥmad ʿAbd al-Mawjūd and ʿAlī Muḥammad Muʿawwaḍ, 4 vols. (Beirut: Dār al-Kutub al-ʿilmiyya, 1419/1989), *kitāb al-shahādāt*, 4:457, no. 2113.

80 Richard J.A. McGregor, *Sanctity and Mysticism in Medieval Egypt: The Wafāʾ Sufī Order and the Legacy of Ibn ʿArabī* (Albany, NY: State University of New York Press, 2004), 55.

81 Ibn al-Qaysarānī, *Kitāb al-samāʿ*, 84, 87.

reliable chain of transmission for this tradition, he observes, goes back not to the Prophet, but to the Companion Ibn Masʿūd, a view that is supported by opponents of music such as Ibn Abī al-Dunyā and Ibn al-Jawzī.[82] No doubt aware of this line of attack, in the section of *Kaff al-raʿāʿ* devoted to the legal status of singing Ibn Ḥajar al-Haytamī attempts to refute another claim of Ibn al-Qaysarānī's, namely that the permissibility of singing was the consensus of the Companions. He does this by turning the Ẓāhirī scholar's argument against him. If Ibn Masʿūd did in fact say that singing nourishes hypocrisy in the heart – and Ibn Ḥajar al-Haytamī points out that the tradition is attributed to Ibn Masʿūd in al-Bayhaqī's (d. 458/1066) *al-Sunan al-kubrā* – then the Companions could not have agreed that singing was permitted.[83] Even if the tradition is not a statement of the Prophet, in other words, its attribution to Ibn Masʿūd still undermines Ibn al-Qaysarānī's permissive view on singing.

In the same section, Ibn Ḥajar al-Haytamī goes further, observing that this report is one of two explicit texts – the other is Q. 31:6 – indicating the prohibition of singing (*ẓāhirān fī l-taḥrīm*).[84] This assertion is dependent on the claim that the tradition is in fact a genuine statement of the Prophet, and not of one of his Companions or Followers, and hence can be categorised as an explicit scriptural text (*naṣṣ ẓāhir*). He concludes the section by quoting four versions of the report as conclusive proof of the error of "pseudo-Sufis" (*man yazʿum taṣawwuf*^{an} *wa-sulūk*^{an}) who praise singing and claim that listening to it enables one to obtain mystical forms of knowledge (*al-maʿārif*) and to perform miracles (*al-karāmāt*).[85] This remark is likely directed at al-Tūnisī, who in his treatise mentions the miracles performed by those who attend Sufi *samāʿ* sessions.[86] The reference to "those who claim to be Sufis" reflects Ibn Ḥajar al-Haytamī's claim to be representing a true, "sober" Sufism against "intoxicated" Sufis who indulge in musical excesses, a theme that we shall return to below.

d) Nāfiʿ, Ibn ʿUmar, and the shepard's flute:

The third report on which Ibn Ḥajar al-Haytamī places emphasis in *Kaff al-raʿāʿ* is a tradition recorded in the *Musnad* of Aḥmad b. Ḥanbal and found in abbreviated form in Abū Dāwūd's *Sunan*. Nāfiʿ (d. 117/735, 118/736, 119/737

82 *Ibid.*, 87–8; Robson, *Tracts on Listening to Music*, 24; Ibn al-Jawzī, *Talbīs iblīs*, 227.

83 Ibn Ḥajar al-Haytamī, *Kaff al-raʿāʿ*, 36. For a reference to the relevant tradition in al-Bayhaqī, see note 72 above.

84 *Ibid.*, 38.

85 *Ibid.*, 50.

86 al-Tūnisī, *Farḥ al-asmāʿ*, 59.

or 120/738), the client of ʿAbd Allāh b. ʿUmar, said that Ibn ʿUmar heard the sound of a shepherd's flute (*ṣawt zammārat rāʿin*). He put his fingers in his ears, and led his camel off the road. He asked Nāfiʿ if he could hear the sound and continued on his way until Nāfiʿ said that he could hear it no longer, at which point Ibn ʿUmar took his fingers out of his ears and returned to the road. Then he said that he had once seen the Prophet doing the same when he heard the shepherd's flute.[87]

As noted by al-Ghazālī, this report is often cited in treatises condemning musical activity.[88] Ibn Abī al-Dunyā includes it in *Dhamm al-malāhī* among the traditions against music.[89] The Shāfiʿī Abū Bakr al-Ājurrī (d. 360/970) likewise discusses it in his "treatise against recreations", *Taḥrīm al-nard wa-l-shiṭranj wa-l-malāhī*, in a chapter on how reasonable people (*al-ʿuqalāʾ*) keep their hearing pure (*tanzīh … asmāʿihim*) of the sound of certain instruments.[90] And Ibn al-Jawzī cites it as the first of the proofs from the Sunna in the section on the reprehensibility of singing in *Talbīs iblīs*.[91]

At the same time, like ʿĀʾisha's report about Abū Bakr and the singing girls, the report is also used by those who take a permissive view of music, including our author's Ẓāhirī opponents. Ibn Ḥazm includes it as the second report in his list of six traditions that indicate that singing is permitted. Displaying a literalist's concern for the precise wording of the report, he notes that, according to Ibn ʿUmar, the Prophet did not actually command the shepherd to cease playing, nor did he forbid Ibn ʿUmar to listen to it. Similarly, Ibn Ḥazm observes that if the flute were forbidden, Ibn ʿUmar would not have allowed Nāfiʿ to listen to it. In the view of the Ẓāhirī scholar, therefore, the report indicates that the Prophet found the sound of shepherd's flute reprehensible (*makrūh*), just as he loathed everything that did not bring him closer to God. Nevertheless, he permitted others to play and listen to it.[92]

Ibn al-Qaysarānī cites this report among the defective proof texts used by the opponents of music. In his view, there are two reasons why this tradition cannot be cited in support of a restrictive view on music. First, its chain of transmission is weak, for it is related uniquely from Nāfiʿ by one Sulaymān b.

87 Aḥmad b. Ḥanbal, *al-Musnad*, 2:6, no. 4535; Abū Dāwūd, *Sunan*, 5: 141, no. 4925. See also Melchert, "Controversy over Reciting the Qurʾan with Tones," 99, where the Nāfiʿ's tradition about Ibn ʿUmar is included in the Companion reports against singing.

88 D.B. Macdonald, "Emotional Religion in Islam," 248.

89 Robson, *Tracts on Listening to Music*, 29–30.

90 al-Ājurrī, *Taḥrīm al-nard wa-l-shiṭranj wa-l-malāhī* (Cairo: Dār Iḥyāʾ al-sunna al-nabawiyya, 1984), 205–6.

91 Ibn al-Jawzī, *Talbīs iblīs*, 224–5.

92 Ibn Ḥazm, *Rasāʾil*, 1:437.

Mūsā (d. 115-9/733-8), a "Damascene loudmouth" (*al-ashdaq al-dimashqī*) who, according to al-Bukhārī, transmitted several very doubtful Hadiths (*manākīr*). Second, as Ibn Ḥazm argued, if listening to the flute had been forbidden, Ibn ʿUmar would not have asked Nāfiʿ if he could hear the shepherd's flute, for this would have been to invite him to commit a forbidden act. Likewise, if the Prophet had been sent to forbid the flute, he would not simply have put his fingers in his ears when he heard it, but would have explicitly forbidden it, "because he was the Lawgiver, who was commanded to be clear".[93]

Al-Tūnisī does not appear to cite this report, reinforcing the sense that it is the writings of the Ẓāhirī scholars that are Ibn Ḥajar's primary target in his treatment of the Hadith reports relating to music. Ibn Ḥajar discusses the tradition in the context of his treatment of the legal status of the pipe known as the *shabbāba*, the *zammāra*, or the *yarāʿ*.[94] He cites the assertion of one Abū al-Qāsim al-Dūlaqī (dates unknown),[95] "the preacher of Damascus" (*khaṭīb al-shām*), and the author of a book on the prohibition of the *shabbāba*, that the Shāfiʿīs, from those who were close to al-Shāfiʿī up to recent times, including Egyptians, Baghdadis, Khurasanians, Syrians, inhabitants of al-Jazīra and al-Jibāl, and inhabitants of the Hijaz, Transoxiana, and Yemen, all forbid the *shabbāba* on the basis of this report.[96] This claim, which is testimony to Ibn Ḥajar's eagerness to establish the existence of a consensus (at least within his own school) on this and other questions pertaining to the legal status of music, is repeated in a separate subsection specifically devoted to the report.

In that subsection, Ibn Ḥajar responds to those – and here he evidently has Ibn Ḥazm and Ibn al-Qaysarānī in mind – who argue that this Hadith is evidence for the permissibility of the flute.[97] Several arguments, he tells us, have been adduced by religious authorities (*al-aʾimma*) against this view. For instance, in response to those who point out that the Prophet did not explicitly order Ibn ʿUmar to block his ears when he heard the sound of the flute, earlier authorities argued that it had been established among the Prophet and his Companions that "his [*sc.* the Prophet's] actions were a legal proof (*ḥujja*), like his words"; hence, when Ibn ʿUmar saw the Prophet blocking his ears, "he undertook to take him as a model (*al-taʾassī bihi*)". As for those who point out that Ibn ʿUmar asked Nāfiʿ if he could hear (*a-tasmaʿ*) the sound of the

93 Ibn al-Qaysarānī, *Kitāb al-samāʿ*, 59.

94 For a description of the *shabbāba*, see Ibn Khaldūn, *The Muqaddimah: An Introduction to History*, trans. Franz Rosenthal, 3 vols. (New York: Pantheon Books, 1958), 2:395.

95 His correct name may be al-Dūnaqī. See Yāqūt, *Kitāb Muʿjam al-buldān*, ed. Ferdinand Wüstenfeld (Göttingen: Druck und Verlag der Dieterichschen Buchhandlung, 1846), 629.

96 Ibn Ḥajar al-Haytamī, *Kaff al-raʿāʿ*, 71–2.

97 *Ibid.*, 74.

shepherd's flute, they should be told that what is forbidden is only intentional *listening* (*al-istimāʿ*) to the flute, not merely hearing (*al-samāʿ*) it.[98] All of this, Ibn Ḥajar al-Haytamī concludes, constitutes a response to those who claim that there is no explicit proof that the *shabbāba* is forbidden.[99] In this way, he seeks to turn the scripturalism of his Ẓāhirī opponents against them. While they claim to ground their permissive views in the scriptural texts, in fact they ignore or misinterpret those texts to suit their agenda.

e) "There will be people in my community who will permit fornication, silk, wine, and musical instruments":

Ibn Ḥajar al-Haytamī also engages directly with the Ẓāhirī scholars' criticisms of the reports that he cites as proof texts. For instance, another of Ibn Ḥajar's important textual proofs is a Hadith recorded by al-Bukhārī in which the Prophet is said to have predicted that a time will come when some Muslims will permit fornication, silk, wine, and musical instruments (*al-maʿāzif*).[100] Ibn Ḥazm rejects this report on the grounds that al-Bukhārī's chain of transmission, which goes back either to one Abū ʿĀmir, who (Ibn Ḥazm says) is unknown, or to an Abū Mālik, is "cut up" (*munqaṭiʿ*), meaning that there is either a missing link in the chain of transmission or that one of the transmitters is known to have not heard Hadith from the person from whom he or she relates the report.[101] Ibn Ḥajar al-Haytamī explicitly counters this argument by noting that earlier religious authorities have affirmed that all of al-Bukhārī's Hadith reports, including the "cut up" ones, are to be regarded as authentic.[102]

Just as Ibn Ḥazm and Ibn al-Qaysarānī sought to prove the inauthenticity of the Hadiths cited by those who restrict the permissibility of music, so too Ibn Ḥajar al-Haytamī attempts to show that the reports cited by those who take a permissive position are inapplicable to the issue at hand. To take one example, Ibn Ḥazm, Ibn al-Qaysarānī, and al-Tūnisī all cite the report, which is often connected to ʿĀ'isha's tradition about Abū Bakr and the singing girls, that Muḥammad encouraged ʿĀ'isha to look at a group of Ethiopians, or black men (*al-sūdān*), playing with their swords and spears on the day of ʿĪd.[103] According

98 *Ibid.*

99 *Ibid.*, 74–5. Interestingly, Ibn Ḥajar mentions the Shāfiʿīs al-Rāfiʿī, Tāj al-Dīn al-Subkī, and Sirāj al-Dīn al-Bulqīnī (d. 805/1403) among those who question the existence of explicit proof that the *shabbāba* is forbidden, seemingly undermining his own claim regarding the consensus of the Shāfiʿīs on this question.

100 al-Bukhārī, *Ṣaḥīḥ*, *kitāb al-ashriba*, *bāb mā jāʾa fīman yastaḥill al-khamr wa-yusammīhi bi-ghayr ismihā*, 1420–1, no. 5590. Ibn Ḥajar al-Haytamī, *Kaff al-raʿāʿ*, 22.

101 Ibn Ḥazm, *Rasāʾil*, 1:434.

102 Ibn Ḥajar al-Haytamī, *Kaff al-raʿāʿ*, 85.

103 See e.g. al-Bukhārī, *Ṣaḥīḥ*, *kitāb al-jihād wa-l-siyar*, *bāb al-daraq*, p. 717, no. 2906, *kitāb al-manāqib*, *bāb qiṣṣat al-ḥabash wa-qawl al-nabī yā banī arfida*, p. 872, no. 3529.

to Ibn Ḥajar al-Haytamī, however, this report "does not treat the locus of the dispute" (*lā yatanāwal maḥall al-nizāʿ*), for "the Ethiopians were not dancing to song, stamping their feet, or pointing with their sleeves", but were rather playing with weapons and training for combat. This kind of behaviour, he says, is very different from the dancing that his opponents seek to defend, specifically, the kind of dancing associated with effeminate men (*al-mukhannathīn*).[104] Here we come across a motif that recurs throughout Ibn Ḥajar al-Haytamī's treatise and in other treatises against recreation, namely, the close association between *lahw* in its various manifestations (including music) and effeminacy (*takhannuth*), a topic to which we shall return at the end of this essay.

In grounding his objections to music in the Qurʾan and especially the Hadith, Ibn Ḥajar al-Haytamī is emulating the earlier authors of treatises against recreation, Ibn Abī al-Dunyā and al-Ājurrī, whose treatises principally consist of Hadith reports pertaining to the dangers of music and other forms of recreation. That said, Ibn Ḥajar's approach is considerably more discursive than that of those earlier authors, as he takes pains to argue the case for the impermissibility or reprehensibility of several musical activities. This approach reflects in part the polemical context of his work, and in particular his eagerness to rebut what he regards as the dangerously erroneous yet still influential views of Ibn Ḥazm and Ibn al-Qaysarānī on the question of music. Even when he does not engage with the arguments of those earlier scholars directly, his treatment of Hadith indicates that he has their arguments in mind. In particular, his attribution to Muḥammad of two traditions that are not usually attributed to the Prophet – namely, the interpretation of Q. 31:6 as a reference to singing, and the tradition that singing nourishes hypocrisy in the heart – suggests a sensitivity to the suggestion that prophetic Hadith supports those who take a permissive view on the legal status of music. Also worthy of note is the contestability of the Hadith on this subject: in more than one instance, the same tradition is cited both by Ibn Ḥajar and by his opponents in support of their competing views.

Religious Authorities Against Music

While Ibn Ḥajar takes issue with his opponents' use of the scriptural sources, perhaps even more egregious, in his view, is their co-optation of respected religious authorities to their side of the debate. The second major theme

104 Ibn Ḥajar al-Haytamī, *Kaff al-raʿāʿ*, 43–4.

running through *Kaff al-raʿāʿ* is Ibn Ḥajar's attempt to show that these eminent figures, who include Companions, Followers, major religious scholars and Sufis of the formative period, and leading jurists of his own Shāfiʿī school, did not permit engaging in the musical activities that his opponents seek to defend, much less engage in these activities themselves. This attempt seems to be part of a wider effort on Ibn Ḥajar's part to demonstrate the existence of a consensus, at least among those whose opinion matters, on the impermissibility of most of the musical activities that he discusses in his treatise.

Whereas in the previous section Ibn Ḥajar's primary targets were the Ẓāhirī scholars Ibn Ḥazm and Ibn al-Qaysarānī, here his targets are Ibn al-Qaysarānī and al-Tūnisī. In his *Kitāb al-samāʿ*, Ibn al-Qaysarānī asserts that the example of the pious predecessors (*al-salaf*) provides further proof, in addition to the Qurʾan and Hadith, that music is permitted. He cites reports about Mālik (d. 179/796), al-Shāfiʿī (d. 240/820), and Aḥmad b. Ḥanbal listening to singing without condemning it or criticizing those who do condemn it.[105] For example, it is related that Aḥmad's son Ṣāliḥ (d. 265/879) once invited a singer named Ibn al-Khabbāza to his house, though he knew that his father found singing reprehensible. At night, when Ibn al-Khabbāza began to sing on the roof, Ṣāliḥ discovered his father listening to his friend's singing and "strutting about (*yatabakhtar*) as if he were dancing (*yarquṣu*)".[106] Ibn al-Qaysarānī also notes that Ibn Ḥanbal, al-Bukhārī, and Muslim b. al-Ḥajjāj (d. 261/875?) all transmitted Hadith from the Medinan scholar Ibrāhīm b. Saʿd (d. 183/799), whose commitment to singing and playing the oud Ibn al-Qaysarānī details at some length.[107] Ibn al-Qaysarānī adds that the Medinans (whose practice, he says, constitutes *sunna*), the Ẓāhirīs, and the leading Shāfiʿī authority Abū Isḥāq al-Shīrāzī (d. 476/1083) (who, Ibn al-Qaysarānī claims, without any apparent evidence, began his career as a Ẓāhirī) all held that listening to stringed instruments (*al-awtār*) is permitted.[108]

As noted, in *Farḥ al-asmāʿ*, al-Tūnisī argues for the permissibility of unaccompanied singing, singing accompanied by a tambourine and the reed pipe called the *shabbāba*, and singing accompanied by stringed instruments or other kinds of flutes, particularly in the context of Sufi *samāʿ*. Though he does occasionally mention Hadith reports relevant to these issues, his engagement with the scriptural texts is much less extensive than that of the

105 *Ibid.*, 46–7.

106 *Ibid.* This tradition is also cited by al-Ghazālī, for which see Macdonald, "Emotional Religion," 205, and by Ibn al-Jawzī, for which see Christopher Melchert, *Ahmad ibn Hanbal* (Oxford: Oneworld, 2006), 128.

107 Ibn al-Qaysarānī, *Kitāb al-samāʿ*, 64–7.

108 *Ibid.*, 63.

Ẓāhirīs Ibn Ḥazm and Ibn al-Qaysarānī, and he primarily builds his case for the permissibility of each of these musical activities on the opinions and example of earlier religious authorities.

Almost all of his examples are taken from *al-Imtāʿ bi-aḥkām al-samāʿ* of the 8th/14th-century Egyptian Shāfiʿī al-Udfuwī. For this reason, many of the authorities to whom al-Tūnisī appeals are Shāfiʿīs. In making the case for the permissibility of unaccompanied singing, for example, al-Tūnisī claims that most jurists (*akthar al-fuqahāʾ*) think that it is permitted "without any reprehensibility" (*min ghayr karāha*). Among those whom al-Tūnisī mentions by name are the Shāfiʿīs Abū Manṣūr al-Baghdādī (d. 429/1037), al-Māwardī (d. 450/1058), and Imām al-Ḥaramayn al-Juwaynī, as well as the "imams of recent times" (*mutaʾakhkhirī al-aʾimma*), ʿIzz al-Dīn b. ʿAbd al-Salām (d. 660/1262), Taqī al-Dīn b. Daqīq al-ʿĪd (d. 702/1302), and Badr al-Dīn b. Jamāʿa (d. 733/1333), all of whom reportedly permitted unaccompanied singing.[109] The view that the *shabbāba* is permitted, similarly, is identified as that of a group of Shāfiʿīs that includes such prominent figures as al-Ghazālī, al-Rāfiʿī (d. 623/1226) (regarded in later Shāfiʿī *fiqh* as one of the "two masters" [*al-shaykhayn*] alongside al-Nawawī), and the aforementioned "imams of recent times" Ibn ʿAbd al-Salām, Ibn Daqīq al-ʿĪd, and Ibn Jamāʿa.[110] Abū Manṣūr al-Baghdādī, Abū Isḥāq al-Shīrāzī, and Ibn ʿAbd al-Salām are likewise included among those authorities who are reported to have listened to the oud or permitted listening to it.[111] And while surveying the jurists' views on dancing, al-Tūnisī draws attention to those Shāfiʿī scholars who, while acknowledging the dangers of dancing if done in the wrong way, too frequently, or by the wrong sorts of people, nevertheless permit it. For instance, he cites Imām al-Ḥaramayn's view that "dancing is not forbidden, for it is merely upright or crooked movements, but too much of it punctures one's manliness (*yakhrim al-muruwwa*)," and the statement in al-Nawawī's *Minhāj al-ṭālibīn* that "dancing is permitted as long as it is not done with languidness and affectation (*bi-takassur wa-tathann*^{in}), like the behaviour of effeminate men (*ka-hayʾat al-mukhannathīn*)".[112] We shall return to the gendered aspect of these statements below.

Al-Tūnisī also calls on Shāfiʿī authorities in defence of Sufi audition. As with his treatment of other forms of musical activity, al-Tūnisī's case for the legitimacy of *samāʿ* is based on the example of those prominent religious

109 al-Tūnisī, *Farḥ al-asmāʿ*, 49–52.
110 *Ibid.*, 58–9.
111 *Ibid.*, 60–5.
112 *Ibid.,* 68; and see al-Nawawī, *Minhāj al-ṭālibīn*, 568.

authorities who engaged in it. These, he claims in the third and final complete chapter of the treatise, include many "well-known scholars of recent times" (*min mashāhīr al-ʿulamāʾ al-mutaʾakhkhirīn*), from both the eastern and western regions of the Islamic world (*min ahl al-mashriq wa-ahl al-maghrib*).[113] He identifies many of the most prominent scholars of Mamluk Egypt and Syria and Marinid Morocco as participants in Sufi mystical concerts. In the Mamluk context, emphasis is placed, once again, on the Shāfiʿīs ʿIzz al-Dīn b. ʿAbd al-Salām and Taqī al-Dīn b. Daqīq al-ʿĪd. Al-Tūnisī cites several accounts from al-Udfuwī about these scholars' attendance at *samāʿ* sessions in Upper Egypt.[114] Other easterners who are said to have engaged in mystical audition include the mufti of Damascus, Tāj al-Dīn al-Fazārī (d. 690/1291), the aforementioned *qāḍī* Badr al-Dīn b. Jamāʿa, and the *shaykh al-shuyūkh* of 8th/14th-century Mamluk Cairo, Shams al-Dīn al-Isfahānī (d. 749/1348/9), all of whom, again, are Shāfiʿīs.[115]

Of course, al-Tūnisī's authorities are not all Shāfiʿīs. Most of his examples of scholars who participated in Sufi mystical concerts in the Maghribī context are from his own Mālikī school. They include the brothers Abū Zayd (d. 743/1342/3) and Abū Mūsā b. al-Imām al-Tilimsānī (d. 749/1348/9), the mufti Muḥammad al-Saṭṭī (d. 749/1349), the Sufi and jurist Abū ʿAbd Allāh al-Ablī (d. 757/1356/7), and the traditionist and grammarian ʿAbd al-Muhaymin al-Ḥaḍramī (d. 749/1348/9).[116] All of these scholars are major figures. They are described in effusive terms in the Mālikī biographical dictionary *Shajarat al-nūr al-zakiyya fī ṭabaqāt al-mālikiyya*,[117] and most of them were close to the Marīnid sultan Abū l-Ḥasan ʿAlī (r. 731/1331-749/1348), who brought several of them with him to Tunis when he conquered the city in 748/1347. According to al-Tūnisī, Abū l-Ḥasan ʿAlī was himself a participant in Sufi *samāʿ*.[118]

113 al-Tūnisī, *Farḥ al-asmāʿ*, 73. Here al-Tūnisī is again following al-Udfuwī, who claims that "innumerable" religious scholars from the Mālikī and Shāfiʿī schools attended *samāʿ* sessions. See al-Udfuwī, *al-Imtāʿ*, 402.

114 al-Tūnisī, *Farḥ al-asmāʿ*, 73–7. For Ibn ʿAbd al-Salām's Sufism and his engagement in and apology for *samāʿ*, see Knysh, *Ibn ʿArabī*, 63–5, and the discussion below. For Ibn ʿAbd al-Salām's exceptionally high standing among the jurists of Cairo in his time, see Sherman Jackson, *Islamic Law and the State: The Constitutional Jurisprudence of Shihāb al-Dīn al-Qarāfī* (Leiden: Brill, 1996), 9–11.

115 al-Tūnisī, *Farḥ al-asmāʿ*, 74–7.

116 *Ibid.*, 78.

117 Muḥammad Makhlūf, *Shajarat al-nūr al-zakiyya fī ṭabaqāt al-mālikiyya*, 2 vols. (Cairo: al-Maṭbaʿa al-Salafiyya, 1349) 1:219–21.

118 For the Marinid sultans' interest in and support for Sufism, see David S. Powers, *Law, Society and Culture in the Maghrib, 1300–1500* (Cambridge: Cambridge University Press, 2002), 15.

On occasion, al-Tūnisī also refers directly to the Ẓāhirīs Ibn Ḥazm and Ibn al-Qaysarānī. They are included, for instance, in the list of scholars who supported unaccompanied singing. In his treatment of the permissibility of the oud, al-Tūnisī refers directly to Ibn al-Qaysarānī's treatise on music. His claim in that passage that the Shāfiʿī jurist al-Shīrāzī and the scholars of Medina permitted listening to the oud echoes a similar claim made by Ibn al-Qaysarānī, and Ibn Ḥajar accuses him of "servilely imitating" (*qallada*) the Ẓāhirī scholar's false assertions on this topic. Yet it seems that al-Tūnisī's immediate source for his claims about the Medinans and al-Shīrāzī is again al-Udfuwī, who observes in his treatise that Ibn al-Qaysarānī "was a contemporary of the Shaykh [sc. al-Shīrāzī], and met with him, and is trustworthy",[119] an observation that al-Tūnisī reproduces (though omitting the claim about Ibn al-Qaysarānī's trustworthiness) in *Farḥ al-asmāʿ*.[120] More generally, it is clear that, notwithstanding Ibn Ḥajar's claims about his dependency on the Ẓāhirī author, al-Tūnisī is much more reliant on al-Udfuwī than on Ibn al-Qaysarānī. Ibn Ḥajar's decision to gloss over this fact, and to emphasize the connection between al-Tūnisī and Ibn al-Qaysarānī, probably reflects embarrassment on his part about al-Tūnisī's use of a Shāfiʿī source, especially one that offers a more balanced survey of the legal status of music than his own treatise does. Similarly, al-Tūnisī's repeated citation of Shāfiʿī authorities helps explain Ibn Ḥajar's decision to write a refutation of *Farḥ al-asmāʿ*, which, if taken seriously, would undermine any claim to the existence of a consensus within the Shāfiʿī school on the question of music.

Ibn Ḥajar's response to this aspect of the earlier treatises is exemplified in his treatment of the claim, first made by Ibn al-Qaysarānī and repeated by al-Tūnisī, that both the early scholars of Medina and the great Shāfiʿī authority Abū Isḥāq al-Shīrāzī permitted listening to stringed instruments. To refute this claim, Ibn Ḥajar cites the 8th/14th-century Syrian Shāfiʿī Shihāb al-Dīn al-Adhraʿī (d. 783/1381), one of his major sources for the views of earlier authorities on music and other forms of recreation,[121] who says that he personally came across the claim in Ibn al-Qaysarānī's book on *samāʿ*. According to al-Adhraʿī, it was in fact only "the adherents of libertinism and idleness" (*ahl al-majāna wa-l-biṭāla*) in Medina who listened to stringed instruments. Similarly, al-Shīrāzī could not have permitted listening to stringed instruments, for, according to al-Adhraʿī, he expressly stated that the oud is forbidden in the chapter on bequests (*waṣāyā*) in his legal manual *al-Muhadhdhab*. In al-Adhraʿī's view, the

119 al-Udfuwi, *al-Imtāʿ*, 363.

120 al-Tūnisī, *Farḥ al-asmāʿ*, 64.

121 See e.g. Ibn Ḥajar al-Haytamī, *Kaff al-raʿāʿ*, 26, 28, 32, 33, 35–36, 38, 43, 50, 53–54, 57–64, 69–70, 72–73, 75, 77, 97–98.

fact that al-Shīrāzī was a man of great piety also contradicts the claim that he permitted stringed instruments.[122] In fact, al-Shīrāzī's position is somewhat more complicated than al-Adhraʿī's summary suggests. His view, as outlined in *al-Muhadhdhab*, is that an oud that is fit for some beneficial purpose (*yuṣlaḥ li-manfaʿa*) *can* be given as a bequest, but if it is fit for nothing other than recreation (*al-lahw*), then the bequest is null and void (*bāṭil*), because the item bequeathed is forbidden (*muḥarram*).[123]

Ibn Ḥajar also quotes al-Adhraʿī's student, the Cairene Shāfiʿī Badr al-Dīn al-Zarkashī (d. 794/1392), to support his interpretation of al-Shīrazī's position on stringed instruments. According to al-Zarkashī, the view of Jamāl al-Dīn al-Isnawī (d. 772/1370), another leading Shāfiʿī jurist in 8th/14th-century Cairo, that Ibn al-Qaysarānī's account of al-Shīrāzī's opinion indicated a dispute (*khilāf*) within the Shāfiʿī school over the legal status of stringed instruments, is a "delusion" (*talbīs*). In al-Zarkashī's view, al-Isnawī's error in this regard was a result of his servile imitation (*taqlīd*) of his teacher, al-Udfuwī, whose book on listening to music, as we have seen, is the basis of al-Tūnisī's work on *samāʿ*. Ibn Ḥajar uses these assertions of al-Adhraʿī and al-Zarkashī in support of his assertion that Ibn al-Qaysarānī's and al-Tūnisī's claim that prominent religious authorities permitted listening to the oud and other stringed instruments is "a clear lie and ugly ignorance" (*kadhb ṣarīḥ wa-jahl qabīḥ*).[124] He says much the same about Ibn al-Qaysarānī's claim – which, Ibn Ḥajar observes, is also repeated by al-Tūnisī, as well as by an unnamed commentator on al-Nawawī's *Minhāj al-ṭālibīn* – that there was a consensus among the Companions, Followers, and Medinans regarding the permissibility of singing. According to al-Adhraʿī, whom Ibn Ḥajar cites again here, this is one of the "scandals and ugly, fraudulent claims about invented things" (*faḍāʾiḥ wa-tadlīsāt qabīḥa li-ashyāʾ mawḍūʿa*) found in Ibn al-Qaysarānī's writings, and the commentator on the *Minhāj* was negligent (*tasāhala*) in relating them.[125]

The modern editor of *Kaff al-raʿāʿ* observes that Ibn Ḥajar al-Haytamī's treatise is an example of contemporary "madhhab zealotry" (*al-taʿaṣṣub al-madhhabī*),[126] and it is true that Ibn Ḥajar is keen to rehabilitate the reputations of those Shāfiʿī scholars who were said by his opponents to have

122 *Ibid.*, 80.

123 Al-Shīrāzī, *al-Muhadhdhab fī fiqh al-imām al-Shāfiʿī, kitāb al-waṣāyā*, ed. Muḥammad al-Zuḥaylī, 6 vols. (Damascus: Dār al-Qalam; Beirut: Dār al-Shāmiyyah, 1417/1997), 3:738.

124 Ibn Ḥajar al-Haytamī, *Kaff al-raʿāʿ*, 80.

125 *Ibid.*, 34. The anonymous commentator on the *Minhāj* is possibly the Egyptian scholar Sirāj al-Dīn al-Bulqīnī (d. 805/1403), the author of *Taṣḥīḥ al-Minhāj*, whose view on the legal status of the *shabbāba* Ibn Ḥajar criticizes elsewhere in the treatise. See *ibid.*, 75.

126 *Ibid.*, 16.

engaged in forbidden or reprehensible musical activities. As well as refuting Ibn al-Qaysarānī's claims about al-Shīrāzī, he is zealous to prove the falsity of al-Tūnisī's claims about the alleged musical activities of the 7th/13th-century Shāfiʿī jurist ʿIzz al-Dīn b. ʿAbd al-Salām, "the sultan of religious scholars". As we have seen, al-Tūnisī cites Ibn ʿAbd al-Salām as one of those recent religious authorities who permitted unaccompanied singing, listening to the *shabbāba*, and dancing, and who, moreover, attended Sufi *samāʿ* sessions.

Ibn Ḥajar responds to these claims in forceful terms. For instance, in response to the claim that Ibn ʿAbd al-Salām used to dance during Sufi audition sessions, he cites a passage from Ibn ʿAbd al-Salām's *Qawāʾid al-aḥkām fī maṣāliḥ al-anām*, in which the Shāfiʿī scholar asserts that "dancing and clapping with a levity and frivolity that resembles that of women (*bi-khiffa wa-ruʿūna mushābih khiffat al-ināth*) is only done by an ignorant, affectatious, and frivolous person (*arʿan mutaṣanniʿ jāhil*)", observes that there is no basis for these practices in the Qurʾan and Sunna or the example of the prophets, and describes those who dance in this way as "stupid ignoramuses (*al-juhhāl al-sufahāʾ*) who have been confused about the truth of things by their base desires (*bi-l-ahwāʾ*)".[127] In Ibn Ḥajar's view, this passage, which he quotes again later in the treatise,[128] is clear evidence of the falsity (*buṭlān*) of the claim that Ibn ʿAbd al-Salām attended *samāʿ* sessions at which the tambourine and *shabbāba* were played – a claim, he notes, which al-Tūnisī took "without reflection" (*ghayr taʾammul*) from al-Udfuwī.[129] In fact, Ibn Ḥajar adds, Ibn ʿAbd al-Salām described both the tambourine and the *shabbāba* as "condemned innovations" (*bidʿatān madhmūmatān*),[130] while the claim that Ibn ʿAbd al-Salām's student Taqī al-Dīn b. Daqīq al-ʿĪd also attended *samāʿ* sessions featuring the tambourine and *shabbāba* is another of al-Tūnisī's lies.[131] Notably, however, Ibn Ḥajar does not cite the passage from Ibn ʿAbd al-Salām's *Ḥall al-rumūz wa-mafātīḥ al-kunūz* in which the earlier Shāfiʿī advances the view found in classical Sufi manuals that *samāʿ* is *not* forbidden for those who are spiritually qualified to undertake it.[132]

Ibn Ḥajar al-Haytamī's counterclaims about al-Shīrāzī, Ibn ʿAbd al-Salām, and other Shāfiʿī authorities are part of an attempt to show that there is

127 *Ibid.*, 42.
128 *Ibid.*, 67.
129 *Ibid.*, 42.
130 *Ibid.*, 61.
131 *Ibid.*, 88.
132 al-ʿIzz b. ʿAbd al-Salām, *Zubd khulāṣat al-taṣawwuf wa-huwa al-musammā Ḥall al-rumūz wa-mafātīḥ al-kunūz*, ed. Muḥammad ʿAbd al-Raḥmān al-Shāghūl (n.: al-Jazīra li-l-nashr wa-l-tawzīʿ, n.d.), 95ff.

something approaching a consensus within the Shāfiʿī school on the legal status of the musical activities that he discusses, a consensus that corresponds to his own restrictive view. We have already come across this claim about the existence of a Shāfiʿī consensus in our analysis of his discussion of Nāfiʿ's report about Ibn ʿUmar, which he claims is the basis for the Shāfiʿī consensus that the *shabbāba* is forbidden. Elsewhere in the treatise he notes in passing that listening to stringed instruments and certain unnamed "other things" are "forbidden by consensus".[133] He explicitly declares that there is no dispute (*khilāf*), at least (and this is an important qualifier) among those whose opinion is worth listening to, that it is forbidden to listen to reed flutes (*al-mazāmīr*), stringed instruments (*al-awtār*), and the *kūba* drum, implying that this consensus applies not only to the Shāfiʿī school but also to the Muslim community as a whole.[134]

Be that as it may, as we have seen, there *is* in fact a range of opinion within both the Shāfiʿī school and the other three Sunni schools on the legal status of musical activities, and at several points in his treatise Ibn Ḥajar is forced to acknowledge that there are dissenting views within his school. Specifically, on a number of occasions he takes issue with al-Ghazālī, whose relatively permissive position on music, as set out in the chapter of the *Iḥyāʾ* on *samāʿ* and *wajd*, is well known and therefore difficult to ignore. For instance, he cites al-Adhraʿī, who asserts that al-Ghazālī's view that the *shabbāba* is permitted is anomalous (*shādhdh*),[135] and rejects al-Ghazālī's claim that the oud and other instruments would be permitted by analogy (*qiyās*) were it not for the revealed texts that indicate that they are forbidden.[136] Notwithstanding this and other disagreements with Shāfiʿī authorities, however, the overall impression given by the treatise is of unanimity on the essential questions pertaining to the permissibility of music. As Ibn Ḥajar notes immediately after his objection to al-Ghazālī's claims about analogy, even the author of the *Iḥyāʾ* agreed that stringed instruments are forbidden.[137]

Mention of al-Ghazālī leads us to an important aspect of Ibn Ḥajar al-Haytamī's treatment of the legal status of music that might easily be misunderstood, namely, his relationship with Sufism. Often a jurist's affiliation, or lack thereof, with Sufism, is thought to be crucial in determining his attitude towards music, and it would be easy to assume that just as Ibn al-Qaysarānī's

133 Ibn Ḥajar al-Haytamī, *Kaff al-raʿāʿ*, 43.
134 *Ibid*,. 78.
135 *Ibid.*, 71.
136 *Ibid.*, 86.
137 *Ibid.*, 86. For the passage from the *Iḥyāʾ* (that Ibn Ḥajar quotes) in which al-Ghazālī sets out the reasons for their prohibition, see Macdonald, "Emotional Religion in Islam," 212–3.

and al-Tūnisī's permissive positions are motivated by their Sufi orientation, so too Ibn Ḥajar's restrictive position is motivated by hostility to Sufism. It is certainly true that scholars who are immersed in Sufism are often strong advocates of a permissive position on the legal status of certain kinds of music, particularly those connected with Sufi *samāʿ*. As David S. Powers has shown in the case of Maghribī Sufis of the 9th/15th century, Sufis are often concerned to demonstrate the permissibility of *dhikr* and *samāʿ* as a way to legitimate Sufism more broadly, an insight that applies to al-Tūnisī's treatise as well.[138] It is also true that Ibn Ḥajar takes issue with those who, as he sees it, *claim* to be Sufis and defend their misguided musical activities in the name of Sufism.[139]

Nevertheless, this does not mean that Ibn Ḥajar is hostile to Sufism *per se*. His own connections to Sufism, in fact, ran deep. After his father died when he was still a child, Ibn Ḥajar was raised by the Sufi Shams al-Dīn b. Abī al-Ḥamāʾil (d. 932/1526) and the latter's disciple Shams al-Dīn Muḥammad al-Shanāwī (dates unknown) and he received his early education at the shrine of the mystic Aḥmad al-Badawī (d. 675/1276) in Ṭanṭā. After moving to Mecca, he claimed that he only turned to writing on legal topics after he had been encouraged to do so by a dream in which he saw Ḥārith al-Muḥāsibī (d. 243/847), the early renunciant considered an important forbear by later Sufis such as al-Ghazālī.[140]

Indeed, one of the things for which Ibn Ḥajar al-Haytamī is best known is his fatwa *defending* Sufism against the criticisms of Ibn Taymiyya, which seems to have played a key role in the process by which Sufism was accommodated to juristic Islam in the Mashriq.[141] One of the features of Ibn Ḥajar's critique of Ibn

138 David S. Powers, "Law and Sufism in the Maghrib, ca. 829/1425," in Robert Haug and Steven C. Judd (eds.), *Islam on the Margins: Studies in Memory of Michael Bonner* (Leiden; Boston: Brill, 2023), 147–197.

139 Ibn Ḥajar al-Haytamī, *Kaff al-raʿāʿ*, 50.

140 *EI*[2], "Ibn Ḥajar al-Haytamī" (C. van Arendonk and J. Schacht), accessed online via https://referenceworks.brillonline.com/entries/encyclopaedia-of-islam-2/ibn-hadjar-al-haytami-SIM_3179?s.num=0&s.f.s2_parent=s.f.book.encyclopaedia-of-islam-2&s.q=ibn+hadjar+al-haytami on 9th October 2022. See also Josef van Ess, *Theology and Society in the Second and Third Centuries of the Hijra*, trans. John O'Kane (vol. 1) and Gwendolin Goldbloom (vols. 2–4), 5 vols. (Leiden: Brill, 2018), 4:225.

141 For Ibn Ḥajar al-Haytamī's fatwas against Ibn Taymiyya and their influence, see Basheer M. Nafi, "Taṣawwuf and Reform in Pre-Modern Islamic Culture: In Search of Ibrāhīm al-Kūrānī," *Die Welt Des Islams* 42:3 (2002), 307–355, at 323; Khaled El-Rouayheb, "From Ibn Hajar al-Haytami (d. 1566) to Khayr al-Din al-Alusi (d. 1899): Changing Views of Ibn Taymiyya amongst Sunni Islamic Scholars," in Shahab Ahmed & Yossef Rapoport (eds.), *Ibn Taymiyya & His Times* (Karachi: Oxford University Press, 2010), 269–318, at 271–275; Muḥammad b. ʿAbd al-ʿAzīz al-Shāyaʿ, *Ārāʾ Ibn Ḥajar al-Haytamī al-iʿtiqādiyya: ʿarḍ wa-taqwīm fī ḍawʾ ʿaqīdat al-salaf* (Riyad: Dār al-Minhāj li-l-nashr wa-l-tawzīʿ, 1427), 9; Powers, "Law and Sufism in the Maghrib," 194.

Taymiyya is his defence of the Sufi metaphysician Ibn ʿArabī (d. 638/1240), to whose views his opponent al-Tūnisī had also been passionately committed.[142] Interestingly, Ibn ʿArabī's attitude towards musical *samāʿ*, which he calls "the audition of nature" (*al-samāʿ al-ṭabīʿī*), "the audition of tunes" (*samāʿ al-naghamāt*), or "limited audition" (*al-samāʿ al-muqayyad*) – as opposed to "divine" (*ilāhī*) or "absolute" (*muṭlaq*) audition, meaning the hearing of God's words in all things – seems at best ambivalent.[143] Furthermore, as Alexander Knysh has highlighted, several of the scholars cited by al-Tūnisī as practitioners of *samāʿ*, including Ibn ʿAbd al-Salām, Ibn Daqīq al-ʿĪd, and Ibn Jamāʿa, were major critics of Ibn ʿArabī.[144] Clearly, it is possible for different Sufis, even when committed to the same metaphysical framework, to take different views on the permissibility of *samāʿ* and other forms of music. Arthur Gribetz is therefore correct to observe that "the practice of *samāʿ* is vigorously contested among Sufi theologians".[145]

Accordingly, in *Kaff al-raʿāʿ* we find that Ibn Ḥajar positions himself within the tradition of so-called "sober", Junaydian Sufism. He describes al-Junayd (d. 297/8/910/11) as "one of the great Shāfiʿīs", and cites with approval the Sufi manuals of Abū Ṭālib al-Makkī (d. 386/996) and Abū Ḥafṣ ʿUmar al-Suhrawardī (d. 632/1234), works that are also cited by al-Tūnisī in support of his permissive view.[146] Like the authors of these and other classical Sufi manuals, he seems to endorse the view of al-Junayd that, while mystical *samāʿ* is forbidden for the common people, it is permitted for renunciants (*zuhhād*) and recommended for gnostics.[147] Admittedly, his understanding of true *samāʿ* is more restrictive than that of al-Tūnisī and many other contemporary Sufis. As we have seen, he regards the playing of the *shabbāba* flute during *samāʿ* as forbidden and holds that this prohibition applies as much to the "people of mystical tasting" (*ahl al-dhawq*) – that is, advanced mystics – as to the common people. He implies that this more sober form of *samāʿ*, stripped of the accompaniment

142 Ahmed El Shamsy, *Rediscovering the Islamic Classics* (Princeton, NJ: Princeton University Press, 2022), 57.

143 Ibn ʿArabī, *al-Futūḥāt al-Makkiyya*, 4 vols. (Būlāq: Dār al-Kutub al-ʿarabiyya al-kubrā, 1911), 2:367. See also Carl Ernst, *The Shambhala Guide to Sufism,* 183: "Ibn ʿArabi was highly critical of those who thought that mysticism was nothing but enjoyment of music."

144 Knysh, *Ibn ʿArabī*, 61ff., 123–4.

145 Arthur Gribetz, "The *samāʿ* controversy: Sufi vs. legalist," *Studia Islamica* 74 (1991), 43–62, at 43.

146 Ibn Ḥajar al-Haytamī, *Kaff al-raʿāʿ*, 26. al-Tūnusī, *Farḥ al-asmāʿ*, 54. For al-Makkī's view, see Shiloah, "Music and Religion in Islam," 149.

147 Ibn Ḥajar al-Haytamī, *Kaff al-raʿāʿ*, 26, 76.

of musical instruments, was what al-Junayd meant when he said that *samāʿ* is permitted for renunciants and recommended for gnostics.[148] This position is consistent with that of other prominent mystics who position themselves within a tradition of "sober" Sufism, such as ʿAbd al-Qādir al-Jīlānī and Abū Ḥafṣ ʿUmar al-Suhrawardī, who also prohibit the use of musical instruments during *samāʿ*,[149] and indeed with Ibn ʿArabī's notion of "absolute audition". We may therefore conclude that it is not *samāʿ per se* to which Ibn Ḥajar is opposed, nor an antipathy to Sufism *per se* that motivates his restrictive position on music.

Against Recreation (*lahw*)

This leads us to the third and final major theme of *Kaff al-raʿāʿ*. Ibn Ḥajar al-Haytamī's treatise, like those of his opponents, is defined by his position on recreation (*lahw*). Whereas Ibn Ḥazm, Ibn al-Qaysarānī, and al-Tūnisī argued that there is space for recreation within a well-lived Islamic life, Ibn Ḥajar's attitude is more negative and restrictive. In the very first lines of his treatise, he praises God for having "forbidden the loci of recreation (*mawāṭin al-lahw*)" and saved His "chosen ones" (*al-muṣṭafīn*) from its "doubt and uncertainty" (*rayb wa-shuhba*).[150] For Ibn Ḥajar, *lahw* is above all a barrier to the remembrance of God (*dhikr Allāh*) and prayer (*al-ṣalāt*), a formulation that he repeats on numerous occasions,[151] and which is taken from Q. 5:91: "Satan only wants to instil enmity and hatred among you (*yurīdu al-shayṭān an yuwqiʿa baynakum al-ʿadāwa wa-l-baghḍāʾ*), with wine (*al-khamr*) and gambling (*al-maysir*), and to block you from the remembrance of God and prayer (*wa-yaṣuddakum ʿan dhikr Allāh wa-l-ṣalāt*): so will you not renounce [them]?" In alluding to this verse, Ibn Ḥajar implies that music is linked to wine drinking and gambling, and that all of these recreational activities are satanic.

Like other writers of "treatises against recreation", including Ibn Abī l-Dunyā and the earlier Shāfiʿī al-Ājurrī, Ibn Ḥajar discusses the legal status of these other forms of *lahw* alongside the various musical activities discussed in his treatise. Having dealt with the permissibility of music, Ibn Ḥajar goes on to treat the permissibility of backgammon (*al-nard*), chess (*al-shiṭranj*), and other popular

148 *Ibid.*, 76.

149 See Pascal Held, *Baghdad During the Time of ʿAbd al-Qādir al-Jīlānī* (Piscataway, NJ: Gorgias Press, 2022), 136, 158.

150 Ibn Ḥajar al-Haytamī, *Kaff al-raʿāʿ*, 17.

151 *Ibid.*, 69, 71, 73, 78, 107.

games, all of which are also discussed in his ethical work *al-Zawājir ʿan iqtirāf al-kabāʾir*.[152] Like his view of music, his position on these games is restrictive. On the basis of Hadith reports and statements attributed to Companions and other pious predecessors (the majority of which are also found in the treatises of Ibn Abī l-Dunyā and al-Ājurrī),[153] interpretations of certain Qurʾanic verses, and a survey of earlier Shāfiʿī opinion (including that of al-Shāfiʿī himself),[154] Ibn Ḥajar concludes that playing backgammon is forbidden, and a major sin (*kabīra*), while playing chess is reprehensible, or forbidden if it is linked to gambling (*al-qimār*), causes prayer to be missed, or is associated with other similarly abominable things (*fawāḥish*).[155]

According to Ibn Ḥajar, only three forms of recreation are permitted (*al-lahw al-mubāḥ*). These are set out in a Hadith report recorded by al-Tirmidhī (d. 279/892) and Ibn Mājah (d. 273/887): "Everything that the son of Adam takes as recreation (*yalhū bihi*) is vain (*bāṭil*), except for his firing of his bow, his training of his horse, and his playing with his wife."[156] What this means, explains Ibn Ḥajar, is that "everything that a person takes as recreation that has no religious benefit (*fāʾida dīniyya*) in this life or the next (*fī l-ʿājil wa-l-ājil*), is vain, and turning away from it is obligatory, except for these three things".[157] Here we come to the crux of Ibn Ḥajar's outlook. In his view, every activity that a person engages in should be directed towards a religious aim. Those activities that do not are a distraction from man's fundamental purpose, which is to serve God in the hope of achieving reward in the life to come.

Music, according to Ibn Ḥajar, is one such distraction. Indeed, it is a particularly harmful distraction, since, as he repeats on numerous occasions

152 Ibn Ḥajar al-Haytamī, *al-Zawājir ʿan iqtirāf al-kabāʾir*, 2:165–8.

153 Robson, *Tracts on Listening to Music*, 32–5. For one of the Hadiths about backgammon ("The one who plays backgammon [*al-nardashīr*] is like one who dips his hand into the flesh and blood of the pig"), see Aḥmad, *Musnad*, 5:352, no. 22875; Muslim, *Ṣaḥīḥ*, *Kitāb al-shiʿr*, *bāb taḥrīm al-laʿb bi-l-nardashīr*, 1101, n. 2260; Abū Dāwūd, *Sunan*, *kitāb al-adab*, *bāb al-nahy ʿan al-laʿb bi-l-nard*, 5:146, no. 4939; Ibn Mājah, *Sunan*, *kitāb al-adab*, *bāb al-laʿb bi-l-nard*, 1238, no. 3763. For statements of the Companions about chess, see al-Tabrīzī, *Mishkāt al-maṣābīḥ*, ed. Muḥammad Nāṣir al-Dīn al-Albānī (Beirut: al-Maktab al-Islāmī, 1399/1979), *kitāb al-libās*, *bāb al-taṣāwīr*, 1277, nos. 4510-2.

154 See al-Shāfiʿī, *al-Umm*, ed. Rifʿat Fawzī ʿAbd al-Muṭṭalib, 11 vols. (al-Manṣūra: Dār al-Wafāʾ, 1422/2001), *kitāb al-aqḍiya*, *bāb shahādat ahl al-laʿb*, 7: 514–5, where al-Shāfiʿī states that, from the perspective of Hadith (*min jihat al-khabar*), backgammon is more reprehensible than other kinds of amusement, and declares that, while he does not like chess, it is not as bad as backgammon.

155 Ibn Ḥajar al-Haytamī, *Kaff al-raʿāʿ*, 94ff.

156 al-Tirmidhī, *Jāmiʿ*, *kitāb faḍāʾil al-jihād*, *bāb mā jāʾa fī faḍl al-ramy fī sabīl Allāh*, 4:174, no. 1637; Ibn Mājah, *Sunan*, *kitāb al-jihād*, *bāb al-ramy fī sabīl Allāh*, 940, no. 2811.

157 Ibn Ḥajar al-Haytamī, *Kaff al-raʿāʿ*, 94.

throughout his treatise, it is typically motivated by man's base passions (*shahawāt*) or desire (*hawā*), and its aim is to induce the state of *ṭarab*, a term that is often used to signify a state of violent agitation or mystical ecstasy on the part of the listener.[158] Moreover, while chess and backgammon are often associated with gambling, music is especially associated in Islamic sources with wine drinking, gazing on beardless youths, and the behaviour of effeminate men (*al-mukhannathīn*).[159] These are associations to which Ibn Ḥajar repeatedly draws attention.[160]

There is a pronounced gendered dimension to Ibn Ḥajar's attack on recreation. As we have seen, in absolving Ibn ʿAbd al-Salām of dancing during Sufi *samāʿ* sessions, for instance, he quotes the earlier Shāfiʿī scholar's dismissal of the "frivolous" kind of dancing that "resembles that of women (*al-ināth*)". In the same passage, he goes on to cite Ibn ʿAbd al-Salām's observation that some religious scholars have forbidden clapping for men on the strength of the prophetic Hadith, "Clapping is only for women (*innamā al-taṣfīq li-l-nisāʾ*),"[161] which is found in four of the Six Books (namely, the *Ṣaḥīḥayn*, the *Sunan* of al-Nasāʾī, and the *Sunan* of Abū Dāwūd) as well as the *Muwaṭṭāʾ* of Mālik.[162]

Elsewhere, Ibn Ḥajar associates music with loss of "manliness" (*muruwwa*). In our discussion of al-Tūnisī's treatise, we came across Imām al-Ḥaramayn's assertion that dancing "punctures" a man's *muruwwa*. This is significant as *muruwwa*, literally "manliness", also denotes "(manly) virtue" or "moral

158 *Ibid.*, 69–70, 72, 73, 78. For *ṭarab*, see *EI*[2], "*Ṭarab*" (J. Lambert) accessed via https://referenceworks.brillonline.com/entries/encyclopaedia-of-islam-2/tarab-COM_1175 on 12th January 2023; al-Tahānawī, *Kashshāf iṣṭilāḥāt al-funūn*, ed. Luṭfī ʿAbd al-Badīʿ, ʿAbd al-Munʿim Ḥusayn, and Amīn Khūlī (Cairo: al-Muʾassasa al-Miṣriyya al-ʿāmma li-l-taʾlīf wa-l-tarjama wa-l-ṭibāʿa wa-l-nashr, 1963), 1130.

159 See e.g. Robson, *Tracts on Listening to Music*, 40; Macdonald, "Emotional Religion," 213, 237; Shiloah, "Music and Religion in Islam," 148–9. Music is also associated (at least implicitly) with drug taking, another supposed barrier to "the remembrance of God and prayer". Franz Rosenthal, *The Herb: Hashish versus Medieval Muslim Society* (Leiden: Brill, 1971), esp. 80, 88.

160 See e.g. Ibn Ḥajar al-Haytamī, *Kaff al-raʿāʿ*, 61, 66, 69, 72, 73.

161 See e.g. Bukhārī, *Ṣaḥīḥ*, *kitāb al-sahw*: *bāb al-ishāra fī l-ṣalāt*, 299, no. 1234; Aisha Abdurrahman Bewley (trans.), *Al-Muwatta of Imam Malik ibn Anas: The First Formulation of Islamic Law* (Oxford: Routledge, 2010), 61. Some versions of the tradition read, "Praising God is for men and clapping is for women (*al-tasbīḥ li-l-rijāl wa-l-taṣfīq li-l-nisāʾ*)." This version is cited, for instance, by the Shīʿī jurist Shaykh al-Ṭāʾifa al-Ṭūsī (d. 460/1067) in support of the prohibition of women acting as judges. See Karen Bauer, "Debates on Women's Status as Judges and Witnesses in Post-Formative Islamic Law," *Journal of the American Oriental Society* 130, no. 1 (2010): 1–21.

162 Ibn Ḥajar al-Haytamī, *Kaff al-raʿāʿ*, 42.

163 See Edward William Lane, *An Arabic-English Lexicon* (London; Edinburgh: Williams and Norgate, 1863), 2702, s.v. "*muruwwa*".

goodness",[163] and it is generally held to be a condition for giving testimony (*shahāda*) in court. The dominant Shāfiʿī view seems to be that *muruwwa* is a component of probity (*ʿadāla*), which is itself a qualification for acting as a witness.[164] Indeed, in manuals produced by jurists from all legal schools, Sunni and Shiʿi, we find the view that the testimony of a singer (*mughannī*) – and sometimes even that of a person who listens to singing – is to be rejected on the grounds of loss of *muruwwa*.[165] This idea is upheld by Ibn Ḥajar, who in the conclusion to the section of his treatise on unaccompanied singing, declares that the testimony of professional singers or of those who listen to them, or of those who hire singers to teach singing to women or beardless youths, is to be rejected, on the grounds that they have become "stupid" (*safīh*) and lost their manliness (*muruwwa*).[166]

The rationale for this assessment seems to be that anyone who engages in an essentially "feminine" activity like singing is to be subjected to similar restrictions on bearing witness as are applied to women. Indeed, in being prohibited from bearing witness – whereas women's testimony is merely thought to be of less weight in most types of legal case – singers are subjected to harsher restrictions than women, presumably because they are thought to be engaging in behaviour that is beneath their sex.[167] In addition, the reference to "stupidity" indicates a concern that singers, or those who listen to singing, lose their rationality (*ʿaql*). This idea reminds us of Ibn Ḥajar's polemical reference to the "metamorphosis" (*maskh*) of his Ẓāhirī opponents' intellects, of the repeated juxtaposition in his treatise of the ignorance (*jahl*) of his opponents and rationality of those who take a restrictive view on music, and of the Hadith often used to justify the restrictions on women's testimony, in which women are said to be deficient in intellect (*ʿaql*) and religion (*dīn*).[168] Put bluntly, it seems that, in Ibn Ḥajar's view, playing or listening to music can make a man mentally deficient, like a woman.

164 See Rosenthal, *Gambling in Islam*, 10, n. 3.

165 See Szombathy, *Mujūn*, 188.

166 Ibn Ḥajar al-Haytamī, *Kaff al-raʿāʿ*, 40. People who listen to singers in private, by contrast, are still allowed to give testimony. Similarly, later the treatise, Ibn Ḥajar indicates that playing chess in public punctures a man's *muruwwa*, whereas playing it in private does not. See *ibid.*, 113.

167 Based on Q. 2:282, a woman's testimony is generally held to be worth half that of a man's, though women are prevented from giving testimony in cases involving the *ḥudūd* penalties or retaliation (*qiṣāṣ*). On the interpretation of this verse and the rules surrounding women's testimony, see Karen Bauer, *Gender Hierarchy in the Qur'an: Medieval Interpretations, Modern Responses* (Cambridge: Cambridge University Press, 2015), 31–66.

168 On this so-called 'deficiency Hadith', see Bauer, *Gender Hierarchy*, 37–41.

In Ibn Ḥajar's view, music is associated not only with femininity (*ināth*), but also with effeminacy (*takhannuth*), a term denoting "the very negation of normative conduct".[169] In his treatment of dancing, Ibn Ḥajar adopts the view of al-Nawawī (which, as we have seen, is cited by al-Tūnisī), that dancing is permitted only so long as one does not dance in the way that "effeminate men" do (*ka-hay'at al-mukhannathīn*).[170] As already noted in this section, Ibn Ḥajar also associates the *kūba* drum and cymbals with the *mukhannathīn*.[171] In his opening list of Hadith reports, meanwhile, he cites a tradition according to which the Prophet said that those who sing and play the tambourine (*duff*) and die without repenting "will be gathered together by God on the Day of Judgment as if they were naked effeminate men (*mukhannath^{an} ʿuryān^{an}*)".[172] Similarly, in response to a claim by Ibn al-Qaysarānī that Muḥammad once asked if anyone could sing for him, and when someone sang a poem, the Prophet and his Companions "fell into an ecstasy" (*tawājada*), Ibn Ḥajar asserts that this is clearly "an invented, artificial lie" (*kadhb maṣnūʿ mawḍūʿ*), for the poem that is said to have been recited before the Prophet "does not befit the purity of the poetry of the Arabs, but the feeble poetry of effeminate men (*rakākat shiʿr al-mukhannathin*)".[173] This view of poetry is consistent with the attitude displayed in his other works. As Zoltán Szombathy has argued, in his *Zawājir*, Ibn Ḥajar "strongly objects to certain kinds of love poetry", including poems addressed to boys, love poems about a woman other than the poet's wife, or about a named slave-girl, or poems about unnamed women that feature "obscene language or the mention of private parts".[174]

The references to Imām al-Ḥaramayn, al-Nawawī, and Ibn ʿAbd al-Salām indicate that, in making an association between *lahw* – particularly in its musical form – and femininity, effeminacy, and illicit sexuality, Ibn Ḥajar stands in a long tradition. Ibn Abī l-Dunyā's pioneering treatise against recreation, for instance, includes numerous traditions condemning the "sodomite" (*al-lūṭī*) and the *mukhannath*,[175] while, as Lisa Nielsen has demonstrated, singing girls (*qiyān*) at the early Islamic court were associated with "wealth, wine and hedonism". She cites al-Jāḥiẓ's (d. 255/868-9) *Treatise on Singing Girls* (*Risāla fī l-qiyān*), in which the songs of the *qiyān* are said to be "all founded

169 Szombathy, *Mujūn*, 262.
170 al-Tūnisī, *Farḥ al-asmāʿ*, 68; al-Nawawī, *Minhāj al-ṭālibin*, 568.
171 Ibn Ḥajar al-Haytamī, *Kaff al-raʿāʿ*, 66.
172 *Ibid.*, 23–4.
173 *Ibid.*, 40.
174 Szombathy, *Mujūn*, 192–3.
175 Robson, *Tracts on Listening to Music*, 38–40.

on references to fornication, pimping, passion, yearning, desire and lust".[176] As Amnon Shiloah points out, in the high ʿAbbāsid period in which al-Jāḥiẓ was writing, singing-girls were associated with the long-necked lute (*ṭunbūr*), with the result that that instrument was considered "effeminate in character".[177] Though *mukhannathūn* are mentioned less frequently in Islamic literature after the 4th/10th century, these associations had by then become ingrained in Islamic thinking about music.[178] Even al-Ghazālī, who is relatively permissive in his views on music, holds that listening to singing is forbidden when it is accompanied by "pipes and stringed instruments and the *kūba*-drum", since they are "badges of the people who drink and of the *Mukhannaths*".[179] Ibn Ḥajar al-Haytamī, as we have seen, echoes this view, and his treatise indicates that these attitudes remained prevalent in the 10th/16th-century.

It seems that Ibn Ḥajar was especially concerned about what he regarded as the dangerous influence of femininity on male piety. In 936-7/1530-1, twenty-two years before he wrote *Kaff al-raʿāʿ*, he had already been involved in a controversy in Mecca regarding the presence of women in the mosque.[180] As Marion Katz has detailed, Ibn Ḥajar issued a fatwa on the issue, which is "probably the lengthiest and most passionate Shāfiʿī legal opinion on women's mosque attendance" ever written. The "general intention" of the fatwa, Katz explains, is "to exclude women from the mosque altogether", on the usual grounds that their presence might create *fitna*,[181] a term embracing both "sexual temptation and social disorder".[182] Juxtaposing these two controversies, we might speculate that Ibn Ḥajar's heightened concern for the prohibition of illicit, "feminine" musical activities is rooted in the same concern for the prevention of *fitna* as his earlier support for the ban on women's mosque attendance.

176 Lisa Nielson, "Gender and the Politics of Music on the Early Islamic Courts," *Early Music History* 31 (2012), 235–261, at 253, citing A.F.L. Beeston (trans.), *The Epistle on Singing-Girls by Jāḥiẓ* (Warminster: Aris & Phillips Ltd., 1980), 35.

177 Amnon Shiloah, *Music in the World of Islam: A Socio-Cultural Study* (Detroit, MI, Wayne State University Press, 1995), 30.

178 Nielson, "Gender and the Politics of Music," 260.

179 Macdonald, "Emotional Religion in Islam," 237.

180 Marion Holmes Katz, *Women in the Mosque: A History of Legal Thought and Social Practice* (New York; Chichester: Columbia University Press, 2014), 199–257.

181 *Ibid.*, 212–3.

182 *Ibid.*, 3.

Conclusion

Ibn Ḥajar al-Haytamī argues for the impermissibility of most musical activities on the basis of the Qurʾan and Hadith, the consensus of those scholars (particularly of his own Shāfiʿī school) whose opinion is worthy of consideration, and the incompatibility of recreation (*lahw*) and a life of piety. These arguments are marshalled in response to claims articulated in the earlier permissive writings of Ibn Ḥazm, Ibn al-Qaysarānī, and al-Tūnisī. Specifically, Ibn Ḥajar seeks to show the error of the Ẓāhirīs Ibn Ḥazm and Ibn al-Qaysarānī's use of Qurʾan and Hadith and to rebut Ibn al-Qaysarānī's and al-Tūnisī's claims that earlier authorities permitted or engaged in forbidden or reprehensible musical activities. His critique of *lahw* is a reaction against all three earlier scholars' lax attitude towards recreation, which is rooted in an emphasis on the importance of intention (*niyya*) and the inherent ease (*yusr*) of Islam.

Of the three major elements of Ibn Hajar's argument, it is his negative attitude towards recreation that underlies his restrictive views on music, and leads him to interpret the scriptural texts and to cite scholarly precedent in the way that he does. This intolerance of *lahw* has a palpable gendered dimension, recreation being associated, in his mind, as in the minds of other Muslim critics of music, with femininity and effeminacy. In addition, we have seen that attitudes towards recreation – and therefore to music – are not interchangeable with affiliation to Sufism. Though the Sufis Ibn al-Qaysarānī and al-Tūnisī do adopt a permissive view on music, partly out of a desire to defend Sufi *samāʿ*, the Sufi Ibn Ḥajar al-Haytamī is critical of recreation, while the Ẓāhirī Ibn Ḥazm, who has little sympathy for Sufism, is tolerant of it.

Kaff al-raʿāʿ ʿan muḥarramāt al-lahw wa-l-samāʿ is most usefully regarded as a "treatise against recreation", a genre that begins with Ibn Abī l-Dunyā's *Dhamm al-malāhī* in the 3rd/9th century. This genre, and Islamic attitudes to recreation more generally, are worthy of further investigation. As can be seen from Ibn Ḥajar al-Haytamī's treatise, such attitudes can tell us much about a scholar's understanding of Islam.

Acknowledgements

I would like to thank Prof. Christopher Melchert, Prof. David S. Powers, and the two anonymous reviewers for their helpful comments on earlier versions of this essay.